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13-CV-3636(JG)

EXHIBIT

Walters v. Lee

E.D.N.Y.

13-CV-3636 (JG)

EXHIBIT A

The Transcript of Defendant's State Court
Trial and Sentencing

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF KINGS: CRIMINAL TERM : PART 1

3 -----X
THE PEOPLE OF THE STATE OF NEW YORK :

4 - against - :

5 GENERAL WAITERS :

6 Defendant :

IND.#
3464/06

7 -----X
Kings Supreme Court
8 320 Jay Street
9 Brooklyn, New York 11201

10 November 16, 2007

11 B E F O R E :

HONORABLE DEBORAH DOWLING
Justice

12
13 A P P E A R A N C E S :

14 FOR THE PEOPLE:

15 OFFICE OF CHARLES HYNES, ESQ.
16 Kings County District Attorney
17 BY: MARK HALE, ESQ.
Assistant District Attorney

18
19 FOR THE DEFENDANT:

20 BY: CALVIN SIMONS, ESQ.

21
22
23 NADONNA BLANDING, RPR
24 OFFICIAL COURT REPORTER
25

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1 **THE CLERK:** This is number one on the
2 calendar, indictment 3464 of 2006, People of the State
3 of New York General Waiters. The defendant is present
4 before the Court.

5 Counsel, note your appearances.

6 **MR. SIMONS:** Calvin Simons, 616 Eastern
7 Parkway for Mr. Waiters.

8 Good afternoon, your honor.

9 **THE COURT:** Good afternoon.

10 **MR. HALE:** For the Office of the District
11 Attorney, Mark Hale.

12 Good afternoon, your honor.

13 **THE COURT:** Good afternoon. The last time the
14 matter was on, blank CDs were given to the Assistant
15 District Attorney and I believe um, Mr. Simons, you said
16 you needed the audio tapes; is that correct?

17 **MR. SIMONS:** Yes.

18 **THE COURT:** And you've received those?

19 **MR. SIMONS:** No.

20 **MR. HALE:** Audio tapes of.

21 **MR. SIMONS:** I believe there are four 911
22 calls.

23 **MR. HALE:** Right, which were sent to you. But
24 I think primary, what you had it on was for a Huntley
25 hearing.

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1 **THE COURT:** That's correct.

2 Are both sides ready?

3 **MR. HALE:** I'm ready.

4 **MR. SIMONS:** Your honor, I believe Mr. Waiters
5 has a motion that he would like to address the Court
6 prior to any hearing.

7 **THE COURT:** And what is the nature of the
8 motion?

9 **MR. SIMONS:** I believe the nature of it is
10 reassignment of counsel. He would like a new attorney.

11 **THE COURT:** On what basis, Mr. Waiters?

12 **THE DEFENDANT:** Because I feel like my
13 attorney is not helping me in his best interest on my
14 behalf in this case.

15 **THE COURT:** Well, have you received papers?
16 You've received papers from Mr. Simons?

17 **THE DEFENDANT:** Right. And I would like for
18 you to um, read this motion and tell you in the motion.

19 **MR. SIMONS:** He's, I believe -- Mr. Waiters is
20 providing the Court with a motion attach -- just so the
21 Court knows, attach to the motion is a letter that I
22 wrote to him, which I am advising not to make it part of
23 the motion but he still wants to make that part of the
24 motion.

25 **THE COURT:** Well, if it's attorney/client

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1 privilege information that really shouldn't appear
2 before the Court because that is advice that you're
3 giving the Court.

4 **MR. SIMONS:** Yes.

5 **THE DEFENDANT:** I still would like for you to
6 read it, your honor.

7 **THE COURT:** Let me say this. It is privileged
8 information. Certainly, I'm not going to read the
9 letter. You need to tell me what it is that you want
10 the Court to know in regards to this matter. But I'm
11 not going to read it. But anything that is attached
12 really shouldn't be a part of the motion.

13 **MR. HALE:** Yes or no, he can waive the
14 privilege, Judge.

15 **THE COURT:** He can. But at this point, I'm
16 not going to under the circumstances, Mr. Hale. I
17 don't know whether I would trust a waiver in any event.

18 **MR. HALE:** Okay.

19 **THE COURT:** You can pass up the motion without
20 the letter.

21 **MR. SIMONS:** Without the paper.

22 **THE COURT:** That's right.

23 (handing).

24 **THE COURT:** Well, Mr. Waiters, have you
25 received copies of the papers in this case?

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1 **THE DEFENDANT:** No. Copy of this case.

2 **THE COURT:** I'm saying the papers that the
3 attorney has, has he been turning over those papers to
4 you?

5 **THE DEFENDANT:** No.

6 **THE COURT:** You're saying you received no
7 papers?

8 **THE DEFENDANT:** Some papers.

9 **THE COURT:** What are the some papers that
10 you've received?

11 **THE DEFENDANT:** Like when the case first
12 started that's as far as I understand it about the case.
13 And, your honor, I would like to say um, I am trying
14 to -- I would like to cop out to something but not with
15 life on it. And my attorney, I don't think he is for
16 that.

17 **THE COURT:** Well, let me say this. Mr. Simons
18 can't get you that offer. The only way that it would be
19 available is if the People made that kind of offer, that
20 is number one. Even, Mr. Waiters, you took a plea in
21 front of this Court, this Court would only be allowed to
22 take a plea on the top counts. And with the top counts,
23 that carries a sentence to life. Do you understand what
24 I'm saying to you, sir? So Mr. Simons can't get you
25 something that the Court is unable to give, number one.

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1 Number two, the People aren't making any offers in this
2 case, is that correct, Mr. Hale?

3 **MR. HALE:** That is correct, Judge.

4 **MR. SIMONS:** Mr. Waiters was not present
5 during the last adjournment, but I did inform him that I
6 did make a request and I did talk to Mr. Hale regarding
7 an offer where there was no life. I did make a request.
8 I gave him a specific number. I think I mentioned 25
9 but something without life, which he said he could not
10 do. I did approach the Court and asked what kind of
11 offer the Court would consider. And I believe when we
12 last left, the Court said that you would consider an
13 offer of 20 to life, which I have communicated with
14 Mr. Waiters. I did talk to Mr. Hale. He said he could
15 live with an offer of twenty to life. So, that is the
16 only -- and it appears to be the lowest offer that is
17 available to him, so that's where we are. And he should
18 understand.

19 **THE COURT:** And I'm reading through the
20 motion.

21 **THE DEFENDANT:** I'm just going to trial.

22 **THE COURT:** You do have to consult with him.
23 The case is only in a posture where we are conducting
24 the preliminary hearings. And as far as obtaining the
25 documents, a lot of the adjournments have been

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1 requested, Mr. Simons. So that you can update the
2 documents which your client gave you the bear minimum
3 information that you had to track down to find out if
4 records existed. And in fact you found the records
5 which did exist. And you did have those brought into
6 Court. So I'm a little bit puzzled when you say that
7 Mr. Simons haven't been doing anything. Because again,
8 based upon the sketchy information you've submitted to
9 him, you had to eventually track down those social
10 security records and have them produced in Court on your
11 behalf that the Court is aware of. And certainly, this
12 Court is certainly aware that certainly he's had
13 evaluations done in regard to any positions that the
14 defense could have in regard to this case. So when you
15 say he hasn't been doing anything, that is not quite
16 accurate at all, Mr. Waiters, that I see.

17 And I know it says that the case been pending
18 for 18 months. But certainly defense counsel has been
19 doing certain things and discovery has taken a while. I
20 don't see a basis to really grant this motion.

21 **MR. SIMONS:** Your honor, just for the record.
22 Mr. Waiters had concerns regarding the availability of
23 our doctor. If we were to pursue that defense, I'm
24 letting him know that we will make sure that he is
25 available if we decide to use him. We will get his

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1 schedule. It was a question of his availability whether
2 we will actually use him or not. And he wanted me to
3 ask the court to maybe we can get another doctor to
4 examine him. But I don't believe we need to do that.
5 We have submitted all of the records and everything to
6 the doctors. Two doctors have examined it and we are
7 prepared to deal with their analysis of that and proceed
8 with what we have.

9 **THE COURT:** And certainly without saying more,
10 there is no basis to grant this motion. I don't believe
11 that there has been a break down in communications.

12 **MR. SIMONS:** And the final thing is
13 Mr. Waiters is informing me that he's not interested
14 in -- if there is a twenty to life offer, he's not
15 interested in that offer. As he stated, he's not
16 interested in any offer.

17 **THE COURT:** That was why we are here to try
18 the case. And I'm saying that certainly, um, he is
19 talking about the case pending forever. Even if the
20 Court were to even consider it substituting counsel,
21 that would only mean a further delay again. The new
22 attorney would have to go through the same process and
23 procedures, Mr. Simons, that you would be going through.
24 And certainly in terms of your skill and ability to
25 represent Mr. Waiters on this matter, I don't see any

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1 deficiency which has occurred.

2 And I don't see there being any impediment in
3 your terms of communication.

4 **MR. SIMONS:** Well, in light of that, he's now
5 prepared to go forward with the case. And we are ready
6 to go hearings today.

7 **THE COURT:** For the record, this motion will
8 be denied.

9 **MR. HALE:** Your honor, as I understand it, the
10 subject matter of the hearing is Huntley. Statement
11 which was given to Detective Duffy on May the 8th of
12 2006. I have given Mr. Simons the Grand Jury testimony.
13 Detective Duffy in reference to that statement as well
14 as Detective Duffy's handwritten notes concerning that
15 statement and the Miranda card concerning that
16 statement.

17 Are you ready to proceed, Mr. Simons?

18 **MR. SIMONS:** Yes.

19 **THE COURT:** Call your first witness.

20 **MR. HALE:** The People call Detective Timothy
21 Duffy.

22 **D E T E C T I V E T I M O T H Y D U F F Y,** a witness
23 called on behalf of People after having first been duly sworn
24 by the Court Clerk, was examined and testified as follows:

25 **THE WITNESS:** Yes, I do.

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1 **THE CLERK:** Be seated, please.

2 Please state for the record your full name,
3 your shield number and your command.

4 **THE WITNESS:** Detective Timothy Duffy, shield
5 number 2381. Assigned to the Brooklyn North Homicide
6 Squad. D-U-F-F-Y.

7 **THE CLERK:** Thank you.

8 **THE COURT:** Good afternoon, Detective Duffy.

9 **THE WITNESS:** Good afternoon.

10 **THE COURT:** I will ask that you please keep
11 your voice up. You need to speak loud enough because we
12 need to hear your answer.

13 Detective, if you're asked a question by any
14 of the attorneys and the question isn't quite clear to
15 you, I don't want you to guess as to what you think you
16 are being asked. If the question isn't clear, you will
17 let the attorneys know. They will then rephrase that
18 question and ask you the question in such a way that you
19 should be able to understand it and you will then answer
20 it.

21 And finally, Detective Duffy, if you hear any
22 of the attorneys object to a question, you cannot answer
23 that question until I have instructed you as to whether
24 you may answer the question. Is that understood by you,
25 Detective.

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1 **THE WITNESS:** Yes.

2 **THE COURT:** You may inquire.

3 **MR. HALE:** Thank you, your honor.

4 DIRECT EXAMINATION

5 BY MR. HALE:

6 Q Sir, you work for the New York City Police
7 Department?

8 A Yes.

9 Q How long have you been assigned to the Brooklyn
10 North Homicide Squad, sir?

11 A Over four years now.

12 Q Were you working as a detective investigator at the
13 homicide squad on May 8th of 2006?

14 A Yes, I was.

15 Q Now, sir, during the course of that particular day,
16 were you requested to perform some assignments in regards to a
17 past homicide, one that occurred on May the 7th of 2006?

18 A Yes, I was.

19 Q And what was it that you were requested and by
20 whom?

21 A I was asked by my Sergeant to respond over to the
22 hospital to see if I can interview Mr. Waiters.

23 Q Now, sir, had you had any involvement with the case
24 from the 7th at all before that time?

25 A None whatsoever, no.

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1 Q After you received that request from your sergeant,
2 where did you receive that to?

3 A Kings County Hospital.

4 Q And any specific location within Kings County
5 hospital?

6 A If I can refer to my notes.

7 **THE COURT:** Certainly, with the Court's
8 permission. Can you just tell us what you're looking at
9 and refresh your recollection.

10 **THE WITNESS:** Yes.

11 A I'm looking at a DD5 of a police report that I
12 filled out. I responded to ICU D3 north. That is where
13 Mr. Waiters was a patient.

14 Q And you responded there by yourself or with anyone
15 else?

16 A With my partner, Detective Krisstoffersen (ph).

17 Q Now, sir, do you recall approximately when it was
18 that you responded to Kings Hospital?

19 A Approximately eleven o'clock in the morning.

20 Q And when you arrived at the location that you
21 mentioned, sir what, if anything, did you observe?

22 A Mr. Waiters was in the hospital bed with some
23 severe injuries to his head. I believe there were two female
24 police officers watching him.

25 Q At the time that you first observed Mr. Waiters,

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1 was he awake or asleep?

2 A He was awake.

3 Q And, sir, at that time, did you make any inquiry as
4 to Waiters?

5 A I introduced myself to him, yes.

6 Q Had you recall what words you used?

7 A No, I don't recall.

8 Q Um, after you introduced yourself, did you do
9 anything with regards to Mr. Waiters?

10 A Yes. I read him his Miranda rights.

11 Q Now, sir, from what or in what form did you read
12 him his Miranda rights?

13 A From a card that I brought with me.

14 Q And, sir, do you have that card with you now?

15 A Yes, I do.

16 Q If I can have that, please.

17 (handing)

18

19 **MR. HALE:** People's 1 for identification?

20 **THE COURT:** I'll deem mark it People's 1 for
21 purposes only.

22 It will be shown to defense counsel.

23 (Whereupon, People' 1, was marked for
24 identification)

25 Q Detective, again, taking a look at People's 1 for

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1 identification. There are some printing on there. There are
2 some writing in ink?

3 A That's correct.

4 Q And the writing in ink, sir, who completed that and
5 when was it completed?

6 A I filled out the time and the date and I signed my
7 name and put my shield number. Mr. Waiters signed his name on
8 the lower left.

9 Q Now, sir, that particular document a long with the
10 writing that you just identified, is it substantially in the
11 same condition as it was when you utilized to read the Rights
12 to Mr. Waiters on May 8th of 2006?

13 A Yes, sir, it is.

14 **MR. HALE:** I'll offer 1 in evidence for the
15 hearing.

16 **MR. SIMONS:** No objection.

17 **THE COURT:** People's 1 will be in evidence for
18 the purposes of the hearing. We will deem it mark into
19 evidence.

20 (Whereupon, People's 1, document, was moved
21 into evidence)

22 Q Now, sir, you indicated that you put the time on
23 there. What time did you put when the Miranda warnings were
24 read?

25 A 1105 hours.

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1 Q And sir, if you could tak People's Exhibit Number
2 1. Did you read the Rights to him exactly as they are printed
3 on that particular document?

4 A Yes, sir, I did.

5 Q What was the first Right that you read to
6 Mr. Waiters. And you may utilize that, sir?

7 A You have the right to remain silent and refuse to
8 answer questions. Do you understand.

9 Q Now, what answer did Mr. Waiters give to you when
10 you read that warning?

11 A Yes.

12 Q Did you read anything else to him at that point?

13 A Yes, I read the remaining.

14 Q Tell us what those are?

15 A Anything you do say maybe used against you in a
16 Court of Law. Do you understand. He responded Yes.

17 You have the right to consult an attorney before
18 speaking to the police and to have an attorney present during
19 any questioning now or in the future. Do you understand. He
20 responded yes.

21 If you cannot afford an attorney, one will be
22 provided for you without cost. Do you understand. He
23 responded yes.

24 If you do not have an attorney available, you have
25 the right to remain silent and until you have an opportunity

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1 to consult with one. Do you understand. He responded yes.

2 And then now that I have advised you of your
3 rights, are you willing to answer questions. He responded
4 Yes.

5 Q Was it at that point, sir, that he signed the
6 document in question?

7 A Yes, sir.

8 Q And you supplied him with the pen to sign that?

9 A I did, yes.

10 Q Now, sir, thereafter, did you proceed to have a
11 discussion with Mr. Waiters about the events of the previous
12 day?

13 A Yes, sir, I did.

14 Q And in substance, sir, what was it that you said to
15 him? What was it that he said to you?

16 A I asked him what happened. If I knew why he was
17 there and he explained to me what happened.

18 Q Now sir, when he explained to you what had
19 happened, did you in fact enter that information on to any
20 sort of notes or forms?

21 A Yes. I took handwritten notes.

22 Q If you can, sir, if you need to refresh your
23 recollection as you go on, can you tell us in substance what
24 it was that Mr. Waiters told you about the previous day?

25 A He informed me that --

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1 **THE COURT:** Do you need to refresh your
2 recollection?

3 **THE WITNESS:** Yes, ma'am.

4 **THE COURT:** Certainly, what are you using.

5 **THE WITNESS:** My notes and the DD5 that I
6 filled out. He informed me that he was celebrating his
7 birthday at his house and that he had been drinking with
8 his girlfriend. And that his girlfriend and aunt and
9 his girlfriends kids were home. Um, that they drank all
10 night and they were drinking Bacardi Light with
11 some kind of soda. And one of Jackie's oldest son kept
12 coming in the room and was giving him a hard time about
13 how much he had been drinking. He said that he
14 shouldn't be getting drunk in the house the way that he
15 was. And um, he said that he went into the room and got
16 a gun. He got the gun from somewhere down south in
17 Florence, South Carolina years before. It had just been
18 lying around the house. And he said that Jackie's son
19 started to come at him down the hallway. He thought
20 that he had fired the gun five times but he thought
21 maybe it might have been three. He didn't know if he
22 hit anyone. And then her son got on top of him started
23 stomping him. They smashed a fish tank over his head
24 that he had gotten. The son had gotten the gun away
25 from him and he didn't know what he did with it. Then

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1 another one of her sons came in and start beating him,
2 too. And then he says that he passed out. And the next
3 thing he remembers, he woke up and he was in the
4 ambulance. He said that when he started shooting the
5 gun, that Mary granddaughter and Mary and Jackie were in
6 another room and he didn't see them at all after the two
7 sons had beat him. One of the sons is about 24 and he
8 was wearing all red and the other son is 17. He didn't
9 remember what he was wearing. And that they had just
10 come in and started beating him and he couldn't fight
11 both of them.

12 Q Did he say also, sir, what his intentions was when
13 he was firing the gun at Jackie son?

14 A No, sir.

15 Q Now, the interview that you talked about that you
16 recounted here for us, approximately, how long was it that you
17 were talking to Mr. Waiters to gather the information that
18 you've just recounted?

19 A Maybe tenminutes.

20 Q And during that time, sir, did Mr. Waiters appear
21 to be lucid understanding your questions and give coherent
22 answers?

23 A He was having a difficult time speaking with me.
24 He seemed to understand the conversation, but he was in pretty
25 bad shape.

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1 Q When you said had trouble speaking.

2 A He took a pretty good beating, so I don't know what
3 the extent of his injuries were, but his face was severely
4 swollen.

5 Q Sir, at the end of that ten minutes, did you feel
6 the necessity to continue the interview at all?

7 A No.

8 Q And did you terminate the interview at that point?

9 A Yes.

10 Q Did you ever interview him again?

11 A Never.

12 Q When you concluded the interview, sir, did you stay
13 at Kings County Hospital or did you leave?

14 A I left.

15 Q Did you have any further investigation with the
16 investigation of the case thereafter?

17 A Not until Grand Jury.

18 Q And that point you testified concerning what you
19 just talked about here?

20 A Yes, sir.

21 Q Anything else?

22 A That is it.

23 MR. HALE: Thank you. No further questions,
24 your honor.

25 THE COURT: Cross-examination.

1 CROSS-EXAMINATION

2 BY MR. SIMONS:

3 Q Detective Duffy, when you went to Kings County
4 Hospital at 11:05 in the morning on -- excuse me, on May
5 8th, can you tell the Court what was Mr. Waiters' status?

6 A I don't know.

7 Q Do you know if he was under arrest or not under
8 arrest?

9 A I believe he was under arrest, Yes.

10 Q You mentioned that there were two female officers.
11 I believe you said they were watching him?

12 A Correct.

13 Q And you also mention he was in the ICU?

14 A That's correct.

15 Q And do you know what the is ICU?

16 A The Intensive Care Unit.

17 Q And do you remember whether he was handcuffed at
18 all when you saw him?

19 A I believe he was.

20 Q Just so the Court will understand. Just describe
21 where he was in bed?

22 A He was lying face up in a bed covered with bed
23 sheets and blankets.

24 Q Do you remember whether there were any IVs in his
25 arm?

1 A I don't remember.

2 Q Prior to talking to Mr. Waiters, did you talk to
3 any doctors or nurses that were treating him?

4 A Only to find out exactly what room he was in.

5 Q And prior to talking to him, do you know whether he
6 was under any medication or using any medication?

7 A I don't know. No, sir.

8 Q Now, you stated that you, I believe the first thing
9 you did was introduce yourself?

10 A That's correct.

11 Q And when you introduced yourself, did he respond to
12 that at all?

13 A Yes.

14 Q And could you just tell the Court how you
15 introduced yourself and how he respond?

16 A I just explained to him that I was a detective and
17 said hello. Nothing. Just introduced myself Detective Duffy.
18 Asked how he was feeling.

19 Q And did Mr. Waiters say anything?

20 A Yes. He said that he was hurting.

21 Q Did he say anything else just. So the Court would
22 know, what did he say?

23 A I don't recall the details of the conversation. It
24 was just a basic introduction.

25 Q Did he say he was in a lot of pain?

1 A I believe he did tell me that he was in quite a bit
2 of pain.

3 Q At any point did he ask for any medication or any
4 doctors, nurses, or anything like that?

5 A From me, no.

6 Q Well, at any point during the interview, did you
7 hear him request any medication from anybody?

8 A No, sir.

9 Q Now, you mention that you read Mr. Waiters the
10 Miranda warnings as you already described in court?

11 A That's correct.

12 Q And after each warning, you stated that he
13 responded with an answer yes?

14 A Yes, that's correct.

15 Q And how did he do that?

16 A I'm sorry.

17 Q Did he say yes or you could understand him?

18 A Yes.

19 **THE COURT:** Allow him to finish the question,
20 Detective Duffy, before you start answering it.

21 Q And did he have any questions at all after any of
22 the questions that you asked him on the Miranda warnings?

23 A No, sir.

24 Q When he -- I'll withdraw that.

25 You also stated that at some point after the

1 Miranda warnings you signed the card, correct?

2 A That's correct.

3 Q And did he have any difficulty signing the card?

4 A Yes, sir.

5 Q And could you describe that to the Court?

6 A He was in a lot of pain and I guess banged up so he
7 did the best that he could.

8 Q And you asked Mr. Waiters to sign the card, right?

9 A I did, yes.

10 Q And did he say yes or how did he agree to sign the
11 card?

12 A I gave him a pen and he signed it.

13 Q Did he say anything to you at all prior to you
14 giving him the pen?

15 A There was -- he was in a lot of pain. It was going
16 to be hard for him to do.

17 Q And after he told you that, what did you say to
18 him, if anything?

19 A Do the best that he could.

20 Q At any point, did he tell you that he did not want
21 to sign this card?

22 A No, sir.

23 Q Now, after you gave him the pen, could you describe
24 to the Court how he signed this card?

25 A How?

1 Q Well, I'll rephrase it. You mentioned that he was
2 in bed handcuffed?

3 A That's correct.

4 Q The hand that he -- do you remember which hand he
5 signed the card?

6 A I do not.

7 Q Do you remember the hand that he signed the card
8 with, was that arm handcuffed?

9 A No.

10 Q And do you remember whether the hand that he signed
11 the card with, did it appear to be hurt in any way?

12 A I don't recall, no, sir.

13 Q Did you bring the card to him or how did he get in
14 position to sign the card at this point?

15 A I brought it to him.

16 Q And did his hand move on the card or did you move
17 the card for him, I mean. Or would you just describe to the
18 Court how he did it?

19 A I gave him a pen and he signed his name the best he
20 could. He signed it as best. I know he was injured so he did
21 the best he could.

22 Q Were you holding the card while he was signing it?

23 A Yes, I was.

24 Q And while he was signing the card, was he making
25 any noise, you know, any grunts or anything as if he was in

1 pain?

2 A Not that I recall.

3 Q After he signed the card, did he request to see a
4 doctor or anybody or a nurse?

5 A No, sir.

6 Q Now, how long did it take Mr. Waiters to sign this
7 card?

8 A A couple of seconds.

9 Q After he sign the cards that is when you had a
10 conversation with him?

11 A Yes, sir.

12 Q And prior to having the conversation with
13 Mr. Waiters, did you tell him why you were there? What
14 specific incident you were talking about?

15 A No, sir. I just explained -- I asked him to tell
16 me if he remembered why he was there.

17 Q And then after that, he started telling you the
18 story that you described?

19 A That's correct.

20 Q Did he tell you the whole story or did you ask him
21 specific questions as he was telling you the story?

22 A I didn't ask any specific questions. I didn't
23 really have that many details about the case.

24 Q And how long did it take him to tell the story?

25 A About ten, fifteen minutes, maybe.

1 Q And I believe you mentioned that you were taking
2 notes as he was telling you the story? Were you taking these
3 notes at the same time that he was talking.

4 A As he was speaking, yes.

5 Q Now, you also said that he was having a difficult
6 time speaking?

7 A He was in pain, yeah.

8 Q And how did you know he was in pain during this
9 conversation?

10 A I can tell.

11 Q Well, so the Court would know?

12 A Well, just from his physical injuries that I can
13 see. You can see that it was quite painful. His eye was
14 swollen shut. He had taken a pretty good beating.

15 Q Did it appear to you that it was painful for him to
16 talk as he was talking to you?

17 A Not really. He was pretty clear on what he was
18 saying.

19 Q Did you -- was his voice clear or was he having
20 trouble with words? Or if you could describe to the Court, it
21 would be helpful?

22 A He was speaking clearly but low. He wasn't
23 speaking loudly.

24 Q And how did the conversation with Mr. Waiters end?

25 A I'm sorry?

1 Q How did it end? Did he just stop talking or what
2 happened.

3 A Well, he was finish telling me the story that he
4 remembered waking up in the ambulance and that was pretty much
5 the details I needed to know.

6 Q And did you ask any follow-up questions?

7 A No, sir.

8 Q At any point, did you ask a question and he was not
9 able to answer it?

10 A No, sir.

11 Q And after you finished talking to him, I believe
12 you said that you left the room?

13 A That's correct.

14 Q Prior to leaving the room, do you remember whether
15 Mr. Waiters requested to see a doctor or a nurse or any
16 medication?

17 A No, sir. Not that I all, no.

18 MR. SIMONS: One second.

19 Q Just one other question. Before Mr. Waiters sign
20 the Miranda forms, did you have him review the form in any
21 way?

22 A No, sir.

23 MR. SIMONS: Your honor I have no further
24 questions.

25 MR. HALE: No redirect, your honor.

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1 **THE COURT:** Okay. The card that you have, you
2 can give it to me.

3 (handling).

4 **THE COURT:** You can be excused.

5 (Whereupon, the witness was excused)

6 **THE COURT:** Any other witnesses you wish to
7 call?

8 **MR. HALE:** No, the People rest on the hearing,
9 your honor.

10 **THE COURT:** Mr. Simons, any witnesses you wish
11 to call?

12 **MR. SIMONS:** Just one second. No.

13 **THE COURT:** Any closing arguments you wish to
14 make, Mr. Simons.

15 **MR. SIMONS:** Your honor, I'm going to rely on
16 the record, I would request that the Court would
17 consider suppressing the statement of Mr. Waiters based
18 on the conditions as described by the detective. But I
19 believe it speaks for itself, so I would move to
20 suppressed it based on what the officer testified to.
21 Thank you.

22 **MR. HALE:** Your honor, it appears the
23 record -- it's the uncontroverted record at this point
24 that even though the defendant was hospitalized and had
25 suffered some injuries, that did not debilitate him from

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1 making a voluntarily waiver of his Right, which were
2 read to him in accordance with the case law. And he was
3 not subjected to an extensive interrogation by any
4 means. But ask merely to recount the incident in a
5 fairly abbreviated fashion. So that he was not
6 subjected because of his physical condition to anything
7 that would be close to being considered interrogation.
8 But just to put it briefly, there is no constitutional
9 rights of any sort and it's rather clear that he was
10 capable and did in fact made a knowing voluntary waiver
11 of his rights in recounting his version in question.

12 **THE COURT:** I will reserve decision on this.
13 Today is the 16th. May I see counsel with regards to
14 scheduling.

15 (At which time, there was an off-the-record
16 discussion held)

17
18 **THE COURT:** And certainly, Mr. Simons, I will
19 order the minutes of the hearing.

20 **MR. SIMONS:** Yes, 18B.

21 **THE COURT:** The Court has returned the
22 original to the People.

23 **MR. HALE:** And I acknowledge receipt. That's
24 People's exhibit 1.

25 **THE COURT:** The Court will reserve the

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1 decision on the hearing. This matter will be adjourned
2 until December 7th. Put that on for 10:00 a.m.

3 And again, certainly Mr. Hale, you acknowledge
4 receipt of the original of People's 1, which was deemed
5 in evidence.

6 **MR. HALE:** The Miranda card, that's correct,
7 your honor. And I think that we can use that adjourn
8 date probably when the Court makes its decision on the
9 Huntley hearing as a final conference scheduling for
10 trial in this case.

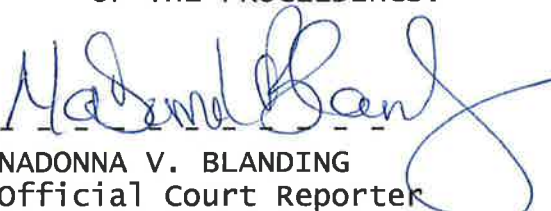
11 **THE COURT:** Certainly. Any other matters to
12 go on the record before we recess?

13 **MR. SIMONS:** No.

14 **MR. HALE:** Thank you, your Honor.

15 * * * * *

16 IT IS HEREBY CERTIFIED THAT THE FOREGOING IS A TRUE
17 AND ACCURATE CERTIFIED TO BE A TRUE AND ACCURATE
18 TRANSCRIPT
19 OF THE PROCEEDINGS.

20 
21 NADONNA V. BLANDING
22 Official Court Reporter

23 (not certified without original signature)
24
25

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF KINGS: CRIMINAL TERM: PART: 1

3 -----X

4 PEOPLE OF THE STATE OF NEW YORK, :

Indictment

: No. 3464/06

5 -against-

6 GENERAL WAITERS, :

7 Defendant. :

8 -----X

9 320 Jay Street
10 Brooklyn, New York
December 7, 2007

11 B E F O R E:

12 HONORABLE DEBORAH DOWLING,
Justice of Supreme Court

13 A P P E A R A N C E S:

14 CHARLES J. HYNES, ESQ.

15 DISTRICT ATTORNEY KINGS COUNTY

16 BY: MARK HALE, ESQ.

Assistant District Attorney

17 CALVIN SIMONS, ESQ.

616 Eastern Parkway

18 Brooklyn, New York

Attorney for the Defendant

19
20
21
22 PHYLLIS PRICE
23 OFFICIAL COURT REPORTER
24
25

1 THE CLERK: Number one on the calendar.
2 Indictment 3464 of 2006, People of the State of New York
3 against General Waiters.

4 Defendant is not present. Counsel has -- for the
5 Defense -- has submitted an affirmation of actual
6 engagement.

7 MR. HALE: Office of the District Attorney by
8 Mark Hale.

9 I don't know whether Mr. Simons suggested any
10 particular adjourned dates.

11 THE COURT: According to what I have before me,
12 it says, good dates are January 15th and January 21st. And
13 I know this matter was on for the Court's decision on the
14 Huntley hearing

15 And, certainly, based upon the testimony and evidence
16 adduced at the Huntley hearing, this Court finds that the
17 People have not met their burden of proof as to the fact
18 that the defendant knowingly and intelligently waived his
19 rights.

20 So, therefore, the statements will be suppressed.
21 There is a written decision. I am sure your exception is
22 noted for the record.

23 MR. HALE: Whatever date then, your Honor, is
24 fine.

25 THE COURT: The 15th or 21st, whatever date.

Decision

3

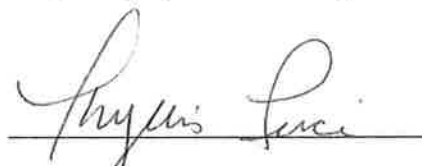
1 I will put it on for the 15th.

2 MR. HALE: Very good.

3 THE COURT: That will be at ten a.m.

4 * * *

5 Certified to be a true and accurate
6 transcript of the foregoing proceedings.

7
8 

9 PHYLLIS PRICE

10 OFFICIAL COURT REPORTER

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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS : CRIMINAL TERM : PART 1

- - - - -X

THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT NO.
3464/06

- against - :

GENERAL WAITERS :

DEFENDANT : JURY VOIR DIRE
VOLUME I

- - - - -X

320 JAY STREET
BROOKLYN, NEW YORK 11201

APRIL 30, 2008
MAY 1 & 2, 2008

BEFORE: HONORABLE DEBORAH A. DOWLING, JUSTICE

APPEARANCES:

CHARLES J. HYNES, ESQ.
District Attorney, Kings County
BY: MARK HALE, ESQ.
Assistant District Attorney

CALVIN J. SIMONS, ESQ.
Attorney for Defendant
616 Eastern Parkway
Brooklyn, New York

VINCENT M. GERALDI, JR.
SENIOR COURT REPORTER

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1 THE CLERK: Number two on the calendar,
2 Indictment 3464 of 2006, People of the State of New York
3 against General Lee Waiters.

4 The defendant is present.

5 Counsels, note your appearances for the
6 record, please.

7 MR. SIMONS: Calvin J. Simons, 616 Eastern
8 Parkway, for Mr. Waiters.

9 Good morning, your Honor.

10 THE COURT: Good morning.

11 MR. HALE: Office of the District Attorney, by
12 Mark Hale.

13 Good morning, your Honor.

14 THE COURT: Good morning.

15 This matter is scheduled for trial.

16 Are both sides ready?

17 MR. HALE: The People are ready, Judge.

18 MR. SIMONS: Yes.

19 THE COURT: Also, before we get to that point,
20 People, is there any Sandoval hearing that you're
21 requesting in this matter?

22 MR. HALE: No, your Honor.

23 THE COURT: Or any other Molineux or anything
24 of that nature?

25 MR. HALE: Only insofar, your Honor, as I

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1 believe is documented in the psychiatric reports, the
2 defense expert, Doctor Drob, and the People's expert,
3 Doctor Bardey, in referencing the defendant's past
4 conduct in terms of alcoholism and drug abuse, which I
5 believe are bad acts, but here wouldn't go to the
6 psychiatric issue. So I don't know if it falls into the
7 ambit of Molineux. I expect it will be first raised by
8 the defense expert, Doctor Drob. The People will
9 respond in kind, obviously, if it goes to any sort of
10 diagnosis that will be referenced.

11 MR. SIMONS: The People aren't presenting this
12 on their direct case, so they're going to wait for
13 whatever Doctor Drob raises. Whatever he raises, I
14 guess, will be a fair issue.

15 MR. HALE: I'm more concerned, just along that
16 line, your Honor, I know that the Court suppressed the
17 statement that was given by Mr. Waiters in the hospital
18 to Detective Duffy from Brooklyn North Homicide. Both
19 of the doctors, again, in their reports, weighed in in
20 terms of both reality testing and diagnosing in terms of
21 their determining the defendant's credibility with the
22 version of events that he gave to them, testing it
23 against the version of events as he gave it to the
24 detectives in the now suppressed statement.

25 I frankly don't know how we're going to handle

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1 that in terms of the case. Again, it would be very
2 difficult for the doctors to say: I think that his
3 mental condition is this because the version of events
4 that he gave me I either credit or I don't credit
5 because it differed or was similar to the previous
6 statement.

7 Again, they factored that statement into their
8 diagnosis in their analysis of Mr. Waiters' state of
9 mind. I'm not sure how the Court wants to handle that
10 or where it will come up.

11 MR. SIMONS: Well, I've talked to Doctor Drob,
12 and I did inform him the statement was suppressed. It
13 was my intention of having Doctor Drob make a diagnosis
14 not using that statement but statements that Mr. Waiters
15 made directly to him and any other report and document
16 he evaluated.

17 I know the People's doctor, Doctor Bardey, he
18 did make an analysis, and I don't think he focused so
19 much on the statement that was suppressed versus just
20 evaluating Doctor Drob, the test results, and all the
21 other conclusions.

22 I don't think there's a problem.

23 MR. HALE: Here's where the problem comes in,
24 to Doctor Bardey anyway. The defendant described a
25 number of symptoms of a psychiatric nature to which

1 Doctor Bardey's ultimate conclusion was that the
2 defendant was malingering or feigning the symptoms.

3 As part of that credibility testing, he was
4 talking about the wildly divergent version of the events
5 as they happened from what he tells Doctor Bardey versus
6 what he told the police, and factored that in as part of
7 why he believed the defendant was malingering because
8 the defendant describes to the detectives a rather
9 solidly based reality sort of version of events and then
10 describes to the doctor one that is influenced by
11 psychiatric issues that he never said to the police.

12 Again, your Honor, I understand the Court
13 suppressed that, and that was the People's use of that
14 in their case in chief. But I think that if the
15 psychiatric issue is raised, as it will be by
16 Doctor Drob, then that then becomes fair play for the
17 People's expert to talk about that in his determination
18 of whether the defendant was being credible in his
19 description of his symptoms.

20 I frankly don't know that there's a way to get
21 around that.

22 MR. SIMONS: Let me just say that Doctor Drob
23 is not going to use that statement. I've already told
24 him to forget it. So, when he testifies, that statement
25 won't be brought up or used in his diagnosis, because he

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1 has other information to make a diagnosis.

2 MR. HALE: But also understanding the entirety
3 of the diagnosis is dependent upon the defendant
4 accurately reporting what his symptoms are.

5 THE COURT: I understand that. But I don't
6 know quite frankly whether, in fact, that would have
7 been something he would have stated to the detectives,
8 in terms of his mental representations that he would
9 have made to a doctor.

10 I understand what you're saying in terms of
11 the statement that he gave to the detectives, which is
12 certainly, you're saying, divergent from one and
13 different from one that he gave to the doctors. But I
14 didn't know, under those circumstances, if he would have
15 given the same statement.

16 MR. HALE: Let's put it this way, Judge, and
17 I'll be more specific. In the statements, when he's
18 talking about -- he says: "I snapped. I don't know
19 what's going on, I black out. I'm not aware of what's
20 going on, and all of a sudden I'm on the floor."
21 Whereas, in the statements to the police, he says:
22 "Lorenzo is coming at me, I shoot the gun at him, he
23 dances out of the way, I don't mean to shoot him." He's
24 talking about intentional acts as opposed to where he's
25 describing to the doctor something that he has no

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1 conscious awareness of what's going on.

2 So, again, when the doctors are sitting there
3 and going, okay, is he giving me a candid account of
4 what's going on, in these cases the doctors would have
5 taken into account if he had said to the police hey, I
6 just blacked out, I don't know what went on, I just
7 snapped, or things of that nature. They would take that
8 into account in making their diagnosis.

9 Here, they're comparing the two and sitting
10 there going well, maybe something's wrong, and then
11 analyzing his statements as to whether he's accurately
12 reporting what's going on.

13 It's a little bit hard for the doctor to make
14 his opinion, specifically when we're talking about the
15 People's doctor, that the defendant was malingering his
16 symptoms. Frankly, I wouldn't be doing my job if I
17 didn't cross-examine Doctor Drob and say he gave you one
18 version of events and here's this another version of
19 events, how do you explain that?

20 The Court can take it under consideration.

21 THE COURT: I was going to say. Absolutely.

22 Not only that, there are some other matters we
23 have to get out of the way. Certainly, I would say to
24 both sides, in terms of whatever openings you wish to
25 make, that certainly should not be part of whatever

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1 openings in terms of specifics about any statements or
2 any doctors' evaluations in regard to the defendant's
3 mental state. That certainly would not be a part of it.
4 So, we'll revisit that issue.

5 Mr. Waiters, let me say this to you. The next
6 phase of your trial will be known as voir dire or jury
7 selection. Now, the Court, the assistant district
8 attorney, and your attorney will be asking questions of
9 jurors collectively as a group and also individually.

10 Mr. Waiters, sometimes due to the personal
11 nature of their answers to the questions, jurors will
12 indicate that they prefer to speak to the Court
13 privately, and that will be done outside of all others
14 in the courtroom, except the Court, your attorney, the
15 assistant district attorney, and yourself.

16 Now, Mr. Waiters, I'm telling you now that you
17 would have an absolute right to be present at all
18 conversations and all discussions which take place
19 between the Court, the attorneys, and the prospective
20 juror which explores a prospective juror's background
21 and their ability to objectively weigh the evidence.

22 Mr. Waiters, while you have an absolute right
23 to be present at all phases of your trial, certainly you
24 have a right to waive your appearance at those
25 discussions which take place between the Court, the

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1 attorneys, and the prospective jurors.

2 What I'm going to ask you to do now is to take
3 some time to speak to your attorney and indicate to the
4 Court whether, in fact, you wish to be present at those
5 conversations.

6 Now, Mr. Waiters, if, in fact, you waive your
7 right to be present at those conversations, certainly,
8 before anything is done, I would give you an opportunity
9 to speak to your attorney about any decisions.

10 As I said, certainly I'm going to ask you to
11 go over that form with your attorney, and then you'll
12 indicate to me what it is, Mr. Waiters, you wish to do.

13 (Defendant consulting with counsel)

14 THE COURT: Mr. Waiters, did you have enough
15 time to discuss this matter with your attorney, sir?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you wish to waive your right to
18 be present at those conversations which take place
19 between the Court, the attorneys, and the prospective
20 jurors?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. Certainly, you've signed
23 the form that the Court has before it?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And you've signed that of your own

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1 free will, Mr. Waiters?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Mr. Waiters, let me say this: The
4 next phase in your trial, sir, will be voir dire or
5 what's also known as jury selection. In order to avoid
6 any confusion, I will now advise you, in the presence of
7 your attorney, of the procedures that will be followed
8 in selecting trial jurors and alternate jurors from the
9 panel of prospective jurors.

10 Certainly, if there are no challenges to the
11 panel of prospective jurors, the Court will then
12 inquire, with consent of counsel, whether, in fact,
13 there are any prospective jurors who, because of
14 something personal or business reasons, wish to be
15 excused.

16 Should any prospective jurors so indicate
17 that, I will then examine them at sidebar and determine
18 and dispose of those applications in the presence of
19 counsel, and will counsel consent to that.

20 Let me ask you this, Mr. Hale. How long do
21 you think it will take you to present your case?

22 MR. HALE: It should only be a matter of at
23 the most four days. At the most.

24 MR. SIMONS: The only witness that I would add
25 to that would be Doctor Sanford Drob at this time.

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1 THE COURT: Does your client come to court on
2 Fridays?

3 MR. SIMONS: Yes.

4 THE COURT: Is that correct?

5 (Defendant consulting with counsel)

6 MR. SIMONS: Yes, he does come to court on
7 Fridays. He has no religious reason not to come to
8 court or Fridays.

9 THE COURT: Is that correct, Mr. Waiters?

10 THE DEFENDANT: Yes, that's correct.

11 MR. SIMONS: Just so the Court knows, this
12 Friday, though, in the afternoon, I would request time
13 off because I'm taking my daughter to see a doctor.

14 THE COURT: Today is Wednesday. If, in fact,
15 we have a jury by Thursday, then I would anticipate
16 getting started on Monday, rather than having the People
17 bring in whatever witnesses. We'll just get started on
18 Monday. I will indicate that to the jurors as well.

19 MR. HALE: That works, your Honor.

20 Thank you.

21 THE COURT: Again, Mr. Waiters, in order to
22 avoid any confusion, certainly I will have the jurors
23 spoken to, and if the attorneys are saying it's five
24 days, normally I would say six to eight days in order to
25 be on the safe side, because I don't know what may

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1 occur. So, normally, when I say the trial will take
2 approximately six to eight days to try, a lot of jurors
3 will then indicate that they cannot serve for that
4 length of time. That is when I'll get the most people
5 asking to come up and speak to the Court at sidebar
6 because they cannot serve that length of time.

7 Certainly, normally what I would do, Counsels,
8 if a juror indicates to me that they cannot serve
9 because of the length of time of a case, because either
10 they have vacations planned, or other things, or job
11 constraints, what I would normally do is not excuse them
12 at the time that they're asking to be excused. However,
13 with the consent of counsel, they will be excused at
14 some point later in the proceeding.

15 What I would do normally is have those jurors
16 who have not expressed any reservation about sitting on
17 the jury placed in the jury box first. And then, as a
18 civic lesson to those who say I can't serve, I've
19 postponed my jury service in the past, for whatever
20 reason, I can't be bothered with serving jury duty, with
21 the understanding that they're not going to be put on
22 this jury--because any time a juror says to the Court
23 and counsel that they have other things that are more
24 pressing than this case, that's not the kind of juror
25 you would want to have serve in any event--as a civic

1 lesson, I would, in fact, have them remain, have them
2 see everything that goes on in the courtroom, and
3 certainly place them in the jury box at the end of all
4 of the rounds.

5 Certainly, before they are placed into the
6 jury box, I would notify both counsel that these are the
7 jurors that we agree should be excused, so that you do
8 not waist your time in questioning those jurors who said
9 that they cannot serve for whatever period of time that
10 we indicate, which would be approximately six to eight
11 days.

12 Certainly, for the information of counsel, the
13 grounds of challenge for cause for a prospective juror
14 are contained in Criminal Procedure Law Section 270.20.

15 Also, the qualifications, disqualifications
16 and exemptions of jurors also are noted in the Judiciary
17 Law, Section 509 through 518.

18 And the procedure for exercising peremptory
19 challenges of an individual juror and the number of
20 peremptory challenges that are allowed to each side is
21 set forth in Criminal Procedure Law Section 270.25.

22 In this case, the number of peremptory
23 challenges is twenty.

24 The voir dire will be conducted in accordance
25 with Criminal Procedure Law Section 270.15 and also in

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1 accordance with the rules of the Chief Judge of the
2 Court of Appeals.

3 After eighteen prospective jurors have been
4 called at random from the panel and sworn to true
5 answers to give to questions that will be asked of them,
6 the Court will then first examine those jurors as to
7 their qualifications to serve as fair and impartial
8 trial jurors on this case.

9 After the Court has had an opportunity to
10 question those prospective jurors, the next thing that
11 will happen, Mr. Waiters, is that the Court will then
12 give the assistant district attorney an opportunity to
13 question those prospective jurors, either individually
14 or collectively, as he sees fit.

15 After the assistant district attorney has had
16 an opportunity to question the prospective jurors, then
17 defense counsel will be given an opportunity to question
18 those prospective jurors as well, either individually or
19 collectively, as defense counsel sees fit.

20 Certainly, I would ask that counsel avoid, if
21 possible, repetitious questioning or redundant probing
22 that might have been covered by the Court or by opposing
23 counsel.

24 Let me just back up now. If there is
25 questioning by the Court and both sides find that a

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1 juror should be excused for cause during questioning by
2 the Court, certainly that juror will then be replaced on
3 consent by counsel.

4 If a juror is replaced on consent by counsel
5 during questioning by the Court for cause, certainly
6 that will not be counted as a peremptory challenge.

7 MR. SIMONS: I'm sorry, Judge?

8 THE COURT: If you agree to excuse a juror for
9 cause during questioning by the Court, whether the juror
10 expresses a particular opinion or indicates that they
11 don't understand English at the time they are in the
12 jury box, that will not be counted as a peremptory
13 challenge.

14 Normally, I would give both sides for the
15 first round twenty minutes to question the prospective
16 juror panel. Certainly, when you've gone over your
17 time, I'll indicate that you have a minute left, but it
18 really means that you've gone over your time and you
19 should wrap it up.

20 Thereafter, you'll be given fifteen minutes
21 for the second round, ten minutes for the third round,
22 et cetera, until we've exhausted the prospective jurors.

23 Certainly, Mr. Waiters, after all questioning
24 has been completed, the Court will then indicate: Do
25 the People have any challenges for cause? Does the

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1 defendant have any challenges for cause? Do the People
2 wish to exercise any peremptory challenges? Does the
3 defense wish to exercise any peremptory challenges?

4 Certainly, the order in which challenges will
5 be made is as follows: First, the People challenge for
6 cause. Then, second, the defense challenges for cause.
7 Third, the People will exercise their peremptory
8 challenges. Fourth, the defense will exercise his
9 peremptory challenges.

10 After both sides have exercised their
11 peremptory challenges, in the sequence that I've just
12 described, then the remaining prospective jurors, that
13 is, those jurors who have not been excluded from
14 service, must retain their place in the jury box and
15 will then be immediately sworn as trial jurors on this
16 case.

17 After the swearing of the remaining trial
18 jurors, the jury box will then be refilled, and
19 certainly the questioning will continue in the manner
20 that I've just described, until twelve jurors have been
21 selected to serve as the trial jury in this case.

22 Certainly, Mr. Waiters, you need to bear in
23 mind that the juror whose name was first drawn, called,
24 and sworn must be designated by this Court as the
25 foreperson of the jury.

1 After twelve jurors have been selected,
2 certainly I would think that at least four alternates
3 may be necessary just in order to ensure a swift
4 transition of this case in order to avoid any problem.

5 Finally, I would say to counsel, during the
6 course of your questioning, please bear in mind that the
7 Court will not permit questioning of prospective jurors
8 as to their specific knowledge or attitude as to any
9 matter of law, nor will you be permitted to certainly
10 question jurors and suggest to them, whether directly or
11 indirectly, that they should refuse to reason together
12 with their co-jurors, or that solicits and encourages a
13 protective juror, either directly or indirectly, to hold
14 out or to do anything less than render a true and
15 impartial verdict in this case.

16 Also, please note that this Court will not
17 permit questioning of prospective jurors that either
18 directly or indirectly solicits a prospective juror to
19 treat a defendant either as a member of the juror's own
20 family or as a juror himself or herself would wish to be
21 treated, because certainly such questions would
22 constitute an appeal to emotion, fear, favor, sympathy,
23 passion and prejudice that would be impermissible.

24 Also, this Court will not permit questioning
25 of prospective jurors which either directly or

1 indirectly urges or solicits a prospective juror to
2 judge all issues in such a way that his or her decision
3 should reflect the undefined conscience of the
4 community.

5 Of course, you may appropriately ask
6 prospective jurors whether or not they would heed and
7 follow the instructions of the Court.

8 Certainly question them as to their
9 occupation, education, experience with crime, certainly
10 their feelings about the police, and whether or not they
11 would give the defendant a fair trial in this case.

12 Normally, what I do--because I don't know if
13 I've tried a case with either counsel--is I would read
14 the indictment to the jury. I don't know if any of the
15 counts have been dismissed. If they do not appear to
16 be, normally I would do that.

17 Also, what I would normally do in a case like
18 this is to indicate that this is not a death penalty
19 case. So, for those jurors who might have some concern,
20 that may be an issue for them.

21 I would be inclined in this case to make the
22 inquiry of both sides, upon agreement, whether, in fact,
23 anyone has read anything about this case or seen any
24 media coverage in connection with this case.

25 MR. SIMONS: Yes.

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1 The only one additional thing I would request
2 is that the Court let the jury know that, I believe, the
3 victim in this case was three years old.

4 MR. HALE: Four.

5 MR. SIMONS: Four.

6 THE COURT: What I had proposed to do is
7 indicate that the person that was killed was a young
8 child, and based on the nature of those accusations,
9 whether there's anyone who feels that they could not sit
10 on a case like this.

11 Also, let me say this, Mr. Waiters. I don't
12 know what's going to be said during the course of the
13 People's questioning of the jurors. I don't know what
14 may happen. But let me say this, sir--and I'm just
15 saying it to you as I would say to every
16 defendant--certainly I would not expect you to say
17 "that's a lie" or object to anything that Mr. Hale may
18 say during the course of his questioning to the jurors.
19 Because if there's anything that occurs in this
20 courtroom certainly as a result of anything that you say
21 or do, you don't get a chance to get a do over. You
22 don't get a chance to have all the jurors sent back
23 downstairs and to start with a fresh panel.

24 It's one thing if something happens in this
25 court during the process of voir dire that would cause

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1 the Court to send the jurors back downstairs, something
2 outside of your control. I'm not going to send a jury
3 panel back downstairs because of anything, Mr. Waiters,
4 that you may do.

5 Is that understood by you?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: I only say this because sometimes
8 a defendant may say, "You know what, Judge? You didn't
9 tell me if I got overly nervous or excited or angry and
10 I said something that the people that were in the
11 courtroom would be the same people to try my case. So I
12 didn't know that." That's why I'm telling you now,
13 because it is just that important.

14 Is that understood by you?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Certainly, if any juror expresses
17 any bias or prejudice, that's the kind of juror we will
18 send immediately back downstairs. Because anyone who
19 says they cannot give you a fair trial will not be
20 permitted to remain in the courtroom, because I would
21 not want that kind of juror to taint the rest of the
22 panel. But anything you do, sir, certainly will not
23 require the Court to start over in this case.

24 Anything questions about anything that I've
25 said, Mr. Waiters?

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1 THE DEFENDANT: No, ma'am.

2 THE COURT: Are both sides ready?

3 MR. SIMONS: Yes.

4 MR. HALE: Yes, your Honor.

5 (Pause in the proceedings)

6 COURT OFFICER: Ready for the panel, Judge?

7 THE COURT: Yes.

8 Both sides are ready?

9 MR. HALE: Yes.

10 MR. SIMONS: Yes.

11 COURT OFFICER: Panel entering.

12 (At this time, the panel of prospective jurors
13 entered the courtroom)

14 THE CLERK: Will the jurors please rise and
15 raise your right hand, and answer the following
16 question:

17 Do you and each of you sincerely and solemnly
18 swear or affirm that you will answer truthfully all
19 questions asked of you relating to your qualifications
20 to serve as a juror in this action?

21 Please say, "I do."

22 PROSPECTIVE JURORS: I do.

23 THE CLERK: Thank you.

24 Please be seated.

25 THE COURT: Good morning, jurors.

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1 My name is Judge Deborah Dowling, and I will
2 be the judge presiding at this trial.

3 The People are represented by the District
4 Attorney of this county, Mr. Charles Hynes, and seated
5 to my left is Assistant District Attorney Mr. Mark Hale.

6 MR. HALE: Thank you, Your Honor.

7 Good morning, ladies and gentlemen.

8 THE COURT: And he will be presenting evidence
9 to you in this case.

10 Seated to my right is defense counsel,
11 Mr. Calvin Simons.

12 MR. SIMONS: Good morning.

13 THE COURT: He represents the defendant in
14 this case, seated next to him, Mr. General Waiters.

15 THE DEFENDANT: Good morning.

16 THE COURT: The case on trial is the People of
17 the State of New York against General Waiters.

18 The defendant stands accused by way of an
19 indictment. The indictment accuses the defendant of the
20 following:

21 First count: The Grand Jury of the County of
22 Kings, by this indictment, accuses the defendant of the
23 crime of Murder in the Second Degree, Penal Law Section
24 125.25(1), committed as follows:

25 The defendant, on or about May 7, 2006, in the

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1 County of Kings, with intent to cause the death of
2 Lorenzo Warren, caused the death of Tajmere Clark, by
3 shooting her with a deadly weapon, namely: a revolver,
4 thereby inflicting various wounds and injuries upon
5 Tajmere Clark, and thereafter and on or about May 7,
6 2006, Tajmere Clark died of the wound and injuries.

7 Second count: The Grand Jury of the County of
8 Kings, by this indictment, accuses the defendant of the
9 crime of Attempted Murder in the Second Degree, Penal
10 Law Section 110/125.25(1), committed as follows:

11 The defendant, on or about May 7, 2006, in the
12 County of Kings, with intent to cause the death of
13 Lorenzo Warren, attempted to cause the death of Lorenzo
14 Warren by means of a deadly weapon, namely: a revolver.

15 Third count: The Grand Jury of the County of
16 Kings, by this indictment, accuses the defendant of the
17 crime of Assault in the First Degree, Penal Law Section
18 120.10(1), committed as follows:

19 The defendant, on or about May 7, 2006, in the
20 County of Kings, with intent to cause serious physical
21 injury to Lorenzo Warren, caused such injury to Lorenzo
22 Warren by means of a deadly weapon, namely: a revolver.

23 The subject matter of this count being an
24 armed felony, as that term is defined in Section 1.20 of
25 the Criminal Procedure Law.

1 Fourth count: The Grand Jury of the County of
2 Kings, by this indictment, accuses the defendant of the
3 crime of Assault in the First Degree, Penal Law Section
4 120.10(1), committed as follows:

5 The defendant, on or about May 7, 2006, in the
6 County of Kings, with intent to cause serious physical
7 injury to Lorenzo Warren, caused such injury to Mary Lee
8 Clark, by means of a deadly weapon, namely: a revolver.

9 The subject matter of this count being and
10 armed felony, as that term is defined in Section 1.20 of
11 the Criminal Procedure Law.

12 Fifth count: The Grand Jury of County of
13 Kings, by this indictment, accuses the defendant of the
14 crime of Assault in the First Degree, Penal Law Section
15 120.10(1), committed as follows:

16 The defendant, on or about May 7, 2006, in the
17 County of Kings, with intent to cause serious physical
18 injury to Lorenzo Warren, caused such injury to Shatashia
19 Lewis, by means of a deadly weapon, namely: a revolver.

20 The subject matter of this count being an
21 armed felony, as that term is defined in Section 1.20 of
22 the Criminal Procedure Law.

23 Sixth count: The Grand Jury of the County of
24 Kings, by this indictment, accuses the defendant of the
25 crime of Criminal Possession of a Weapon in the Second

1 Degree, Penal Law Section 265.03(2), committed as
2 follows:

3 The defendant, on or about May 7, 2006, in the
4 County of Kings, knowingly and unlawfully possessed a
5 loaded firearm, namely: a revolver, with intent to use
6 the same unlawfully against another.

7 The subject matter of this count being an
8 armed felony, as that term is defined in Section 1.20 of
9 the Criminal Procedure Law.

10 Seventh Count: The Grand Jury of the County
11 of Kings, by this indictment, accuses the defendant of
12 the crime of Criminal Possession of a Weapon in the
13 Fourth Degree, Penal Law Section 265.01(1), committed as
14 follows:

15 The defendant, on or about May 7, 2006, in the
16 County of Kings, knowingly and unlawfully possessed a
17 firearm, namely: a revolver.

18 Jurors, the incident is alleged to have
19 occurred on May 7, 2006, at approximately 11:30 a.m.,
20 inside of 340 Williams Avenue, apartment 4I, in the
21 County of Kings, in Brooklyn.

22 Does anyone know anything about this case? I
23 would ask that you raise your hand. Because this matter
24 appeared in the media and might have appeared in
25 newspapers.

JURY VOIR DIRE

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1 If anyone knows anything, you don't have to
2 shout it out, just raise your hand if you know anything
3 about the case.

4 If you do, then certainly I would ask to see
5 counsel with the reporter at sidebar.

6 (The following occurred at sidebar out of
7 hearing of the panel of prospective jurors:)

8 THE COURT: Good morning.

9 May I have your card, please.

10 (Handed to the Court)

11 THE COURT: Your name, please?

12 PROSPECTIVE JUROR: Esther Rubin.

13 THE COURT: Miss Rubin, I would ask, in fact,
14 if you heard anything?

15 PROSPECTIVE JUROR: Yes, I did.

16 THE COURT: What did you hear?

17 PROSPECTIVE JUROR: Those shootings. There
18 were shootings, and my children said, "Ma, he's guilty."
19 I feel that --

20 THE COURT: That you couldn't put that out of
21 your mind at this point?

22 PROSPECTIVE JUROR: No. I mean, I would like
23 to give the man a fair chance, but after all the
24 evidence, I'm afraid I'm not qualified. I would like to
25 disqualify myself for that.

JURY VOIR DIRE

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1 THE COURT: Any questions?

2 MR. HALE: No.

3 MR. SIMONS: No.

4 THE COURT: Ma'am, I can't excuse you from
5 jury duty. The only thing you're going to do,
6 Miss Rubin, you're going back downstairs to the second
7 floor. You can go there now. You can go directly
8 there.

9 (PROSPECTIVE JUROR EXCUSED)

10 (The following occurred in open court in the
11 presence of the panel of prospective jurors:)

12 THE COURT: Certainly, jurors, I will ask
13 whether, in fact, you know any of the parties that I
14 introduced, either the attorneys, Mr. Waiters, or
15 myself. Because, again, jurors, it would be
16 inappropriate for you to sit on this case if you know
17 any of the parties.

18 Now, jurors, the following witnesses may be
19 called, or you may hear these names during the course of
20 this trial. Certainly, I caution you that just because
21 I mention a name it imposes no burden on either side to
22 call that person as a witness. I am only mentioning the
23 names to determine whether or not you recognize any of
24 the names. Because, again, it would be inappropriate
25 for you to sit as a juror on this particular case if you

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1 know any of these witnesses or the names that I'm
2 calling.

3 Tajmere Clark.

4 Mary Lee Clark.

5 Lorenzo Warren.

6 Shatashia Lewis.

7 Jacqueline Warren.

8 Derrick Warren.

9 Koneisha Clark.

10 Sergeant Timothy Corleto.

11 Police Officer Jolene Anderson.

12 Police Officer David Cononico.

13 Detective Joseph Castellano.

14 Detective John Bruton.

15 Detective Michael Pacchione.

16 Detective Richard Amato.

17 Detective George Boston.

18 Detective Edward Dingman.

19 Doctor Michelle Slone, Medical Examiner.

20 Doctor Alexander Bardey.

21 Detective James Valenti.

22 Doctor Sanford Drob.

23 Is anyone familiar with any of those names

24 that I've mentioned?

25 If so, I would ask that you raise your hand.

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1 (HAND RAISED)

2 THE COURT: Okay. I see one hand raised.

3 Counsel, at sidebar.

4 (The following occurred at sidebar out of the
5 hearing of the panel of prospective jurors:)

6 (At this time, a prospective juror approached
7 at sidebar)

8 THE COURT: Good afternoon, may I have your
9 card, please.

10 Your name?

11 PROSPECTIVE JUROR: Joshua Baez.

12 THE COURT: Mr. Baez, I asked if you
13 recognized any of the names. You said you might
14 recognize someone?

15 PROSPECTIVE JUROR: Derrick Warren sounds like
16 he might be another inspector with the Fire Department.

17 MR. HALE: No.

18 PROSPECTIVE JUROR: Then I don't think I know
19 him.

20 THE COURT: Is that the only concern you had?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. If that's it, you can have
23 a seat back in the audience.

24 (At this time, the prospective juror returned
25 to the audience)

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1 THE SERGEANT: There's one more individual.
2 He's coming up.

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Good afternoon.
6 May I have your card, please.
7 Your name, sir?

8 PROSPECTIVE JUROR: Joseph Johnson.

9 THE COURT: Mr. Johnson, you said you might
10 recognize someone?

11 PROSPECTIVE JUROR: I'm a Correction officer.
12 I work in Corrections, New York City.

13 THE COURT: And?

14 PROSPECTIVE JUROR: If I'm not mistaken, I
15 might have recognized the defendant. I only see him
16 from the back, but from the side, I might recognize him.

17 THE COURT: Where are you stationed?

18 PROSPECTIVE JUROR: Rikers Island.

19 THE COURT: Okay. You're saying that because
20 of the fact that you're there, that would affect your
21 ability to be fair?

22 PROSPECTIVE JUROR: Not really, but just to be
23 on the safe side. Like, for instance --

24 THE COURT: That's okay.

25 Mr. Johnson, at this point, I'm just not sure

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1 that the job that you do would affect your ability on
2 this particular case. I'm not going to excuse you from
3 jury duty, I'm only going to send you back downstairs to
4 the second floor.

5 PROSPECTIVE JUROR: No problem.

6 THE COURT: Go there now.

7 PROSPECTIVE JUROR: Okay, ma'am.

8 (PROSPECTIVE JUROR EXCUSED)

9 THE COURT: I send them downstairs because I
10 don't want them to get into anything about it with the
11 other prospective jurors.

12 MR. HALE: Okay.

13 MR. SIMONS: Okay.

14 (The following occurred in open court in the
15 presence of the panel of prospective jurors:)

16 THE COURT: Now, jurors, if you do not
17 recognize a witness' name but later you recognize a
18 witness once he or she takes the witness stand, you must
19 bring it to the Court's attention immediately.

20 Now, jurors, the first step in the trial of a
21 criminal case is to select a jury. A jury that will be
22 free of any preconceived notions and prejudices, and
23 that will be fair to the defendant in this case and also
24 fair to the People.

25 Now, as prospective jurors, we will be asking

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1 you a serious of questions, and the purpose of the
2 questions that we will be asking you is to determine
3 whether or not, if you're selected to serve as a juror
4 on this particular case, whether you can do so fairly
5 and impartially.

6 Now, the procedure of questioning prospective
7 jurors is known as voir dire. Voir dire refers to the
8 procedure by which each juror takes an oath to speak the
9 truth, to speak the truth in answers to questions that
10 will be put to you.

11 Now, jurors, the questions are designed to
12 ascertain your ability to serve as fair and impartial
13 trial jurors on this particular case. I can tell you
14 now, jurors, that the questions are not intended to pry
15 into your private lives, although sometimes, due to the
16 very nature of the kinds of questions that we will be
17 asking you, it may appear that way to you.

18 But I can tell you now, jurors, that both this
19 Court, as well as the attorneys in this case, have the
20 highest responsibility to choose as trial jurors those
21 individuals who will be fair and impartial and give both
22 sides a fair trial, which they're entitled to receive.

23 Jurors, you will also appreciate the fact that
24 the questions will be designed in many instances to
25 alert you as prospective jurors to your functions and

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1 your responsibilities. Jurors, therefore, you will be
2 able to make your own determination and your own
3 evaluation that if you are selected to serve as a juror
4 on this particular case, whether you can do so fairly
5 and impartially.

6 Now, if you are selected to serve as a juror
7 on this case, it will be your responsibility to
8 determine what happened in this case. Now, jurors, you
9 may be asking yourselves how can you determine what
10 happened in this case since you were not there on May 7,
11 2006.

12 Jurors, the law provides that you are the sole
13 and exclusive judges of the facts, and you will have to
14 make a determination based upon the evidence that will
15 be presented to you in this case.

16 Jurors, I can tell you now that the primary
17 source of the evidence that you will hear during the
18 course of this trial will come from the witnesses who
19 will come into this courtroom and take the witness
20 stand, take an oath, and testify orally on direct
21 examination and perhaps cross-examination, and redirect
22 and recross-examination, if any.

23 Now, jurors, certainly, in order for you to
24 determine what the facts in this case are, you must
25 evaluate the evidence that you will hear. And evaluate

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1 is the first most important word to a juror.

2 Evaluate means that you must go behind the
3 witness' oath and determine the credibility of the
4 testimony that you hear. That is, whether a witness is
5 telling the truth, is lying, or is mistaken.

6 Jurors, you will also have to determine the
7 reliability of the testimony that you hear. That is,
8 whether that testimony is probable or improbable in
9 light of the other evidence that you accept as proven.

10 Now, as jurors, you would have the right to
11 accept or reject the testimony of any witness, either in
12 whole or in part.

13 Jurors, after you have heard all of the
14 evidence in this case, at the end of the trial you will
15 be instructed as to the law that will be applicable in
16 this particular case. Certainly, jurors, after that,
17 you will then retire to deliberate for the purpose of
18 reaching a verdict or verdicts.

19 Certainly, deliberations is the second most
20 important word to a juror. A jury is composed of twelve
21 different people, and in deliberations there may be
22 pressure to convince you of another position. Now, it
23 is the duty of each juror to give their own individual
24 views and also to listen to the arguments of the other
25 jurors, and to weigh their arguments. But then, each

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1 juror must vote according to that juror's own
2 conscience.

3 The fact that this action is brought in the
4 name of the People of the State of New York or that
5 evidence will be presented to you by a public official
6 in no way indicates that the public wants a specific
7 verdict in this case. Certainly, the People of the
8 County of Kings are served by whatever verdict is
9 justified by the law and the evidence in this case.

10 Now, this trial involves Murder in the Second
11 Degree, attempted Murder in the Second Degree, Assault
12 in the First Degree--three counts, Criminal Possession
13 of a Weapon in the Second Degree, and Criminal
14 Possession of a Weapon in the Fourth Degree.

15 For those jurors who may be concerned,
16 certainly this case is not a death penalty case.

17 I should also mention the fact that certainly
18 the person that was killed in this case is a young
19 child.

20 Now, is there anyone who, based upon the
21 nature of the accusations in this case, feels that they
22 could not serve on this particular case, based on the
23 nature of the accusations?

24 If so, I would ask that you raise your hand.

25 (HANDS RAISED)

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1 THE COURT: I see a number of hands raised,
2 and I will speak to those jurors.

3 Counsel, I'll see you with the reporter.

4 (The following occurred at sidebar out of the
5 hearing of the panel of prospective jurors:

6 (At this time, a prospective juror approached
7 at sidebar)

8 THE COURT: Good afternoon.

9 May I have your card, please.

10 Your name, please?

11 PROSPECTIVE JUROR: My name is Olga Shumilova.

12 THE COURT: Miss Shumilova, you said that you
13 would find it difficult to sit on this case because of
14 the nature of the accusations?

15 PROSPECTIVE JUROR: I can't do it.

16 THE COURT: But you understand that you
17 haven't heard any evidence up to this point?

18 PROSPECTIVE JUROR: No, I don't know.

19 THE COURT: So, when you say you can't do it,
20 exactly what are you saying?

21 PROSPECTIVE JUROR: I can't accept the
22 situation in any form. I can't.

23 THE COURT: I'm not quite clear when you say
24 you cannot accept the situation in any form. Can you be
25 a little more specific?

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1 PROSPECTIVE JUROR: I never scream at each
2 other. I can't imagine that someone can push someone.
3 I'm not talk about kill or somebody else.

4 THE COURT: So you're saying just because of
5 the nature of the accusation you would be unable to
6 serve?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Do you have any questions?

9 MR. HALE: I do not.

10 MR. SIMONS: No.

11 THE COURT: Ma'am, I cannot excuse you from
12 jury duty. The only thing that's going to happen is you
13 have to go back downstairs to the large room on the
14 second floor that you came from. You can go there now.

15 PROSPECTIVE JUROR: Okay. I have to return to
16 the second floor?

17 THE COURT: Yes.

18 (PROSPECTIVE JUROR EXCUSED)

19 (The following occurred in open court in the
20 presence of the panel of prospective jurors:)

21 THE COURT: I would also say this to the
22 jurors, that I cannot excuse anyone from jury duty. The
23 only thing that's going to happen, if you give me a
24 reason that's good enough, is that you'll go downstairs
25 to the second floor.

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1 (The following occurred at sidebar out of the
2 hearing of the panel of prospective jurors:)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Your name, please.

6 PROSPECTIVE JUROR: Batzion Ifraimov.

7 THE COURT: Miss Ifraimov, you said it would
8 be a hardship?

9 PROSPECTIVE JUROR: Yes, because in '95 my
10 husband was falsely accused and prosecuted. My husband
11 was a cab driver at that time, and the crime happened.

12 THE COURT: What crime happened?

13 PROSPECTIVE JUROR: I don't know. Some cab
14 dragged a person, and they prosecuted my husband. My
15 husband wasn't there. So, I don't know. It's going to
16 be hard for me to be a juror.

17 THE COURT: You said in '95?

18 PROSPECTIVE JUROR: Yeah.

19 THE COURT: Did that happen in Brooklyn?

20 PROSPECTIVE JUROR: In Manhattan.

21 THE COURT: What was your husband accused of?

22 PROSPECTIVE JUROR: They accused him of -- he
23 went to jail.

24 THE COURT: But what was he convicted of?
25 What was he accused of doing, ma'am?

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1 PROSPECTIVE JUROR: They said like some
2 passenger wants to stop, he didn't stop, and supposedly
3 that cab dragged that person.

4 THE COURT: Dragged the person?

5 PROSPECTIVE JUROR: Yes, but my husband was
6 home.

7 THE COURT: So you're saying that because of
8 that situation --

9 PROSPECTIVE JUROR: I don't think I would be a
10 good juror. I don't know. It's very hard. Since that
11 day, it's like -- our life is turned upside down, you
12 know.

13 THE COURT: Do you have any questions?

14 MR. SIMONS: No questions.

15 MR. HALE: Nothing, Judge.

16 THE COURT: Ma'am, I cannot excuse you from
17 jury duty. The only thing I can do is send you back
18 downstairs to the second floor.

19 PROSPECTIVE JUROR: Okay. Thank you.

20 (PROSPECTIVE JUROR EXCUSED)

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Ma'am, your card, please.

24 Your name, please?

25 PROSPECTIVE JUROR: Laurel Rockefeller.

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1 THE COURT: Miss Rockefeller, you said you
2 would be unable to serve because of the nature of the
3 accusations?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You don't think you can put your
6 feelings aside and listen to the evidence?

7 PROSPECTIVE JUROR: No. I've been -- I'm the
8 victim of some violent crimes, and once it was with a
9 firearm, and I don't think I could be fair.

10 THE COURT: Even though you haven't heard any
11 evidence?

12 PROSPECTIVE JUROR: No. The nature of the
13 crime is too much in line with what I suffered.

14 THE COURT: Any questions?

15 MR. HALE: No.

16 MR. SIMONS: No.

17 THE COURT: Ma'am, the only thing I can do is
18 send you back down downstairs to the second floor.

19 PROSPECTIVE JUROR: Of course.

20 THE COURT: You can go back down there right
21 now, Miss Rockefeller.

22 (PROSPECTIVE JUROR EXCUSED)

23 (At this time, a prospective juror approached
24 at sidebar)

25 THE COURT: Sir, your card, please.

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1 Your name, sir?

2 PROSPECTIVE JUROR: Peter Weiss.

3 I'm a licensed child therapist in a day
4 treatment program for emotionally disturbed children and
5 their families. Situations like this, frankly, are all
6 too familiar to me. I just don't know about my judgment
7 in the case.

8 THE COURT: Well, I have to ask you the tough
9 questions, Mr. Weiss.

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: What I need to ask you is whether,
12 in fact, and I know it may be difficult because you say
13 you do this on a daily basis, whether you can set those
14 experiences aside and listen to the evidence as it comes
15 in to this particular case and then base your judgment
16 based upon what you hear coming from that witness stand
17 and the law as I give it to you? I don't know if you
18 can do it. I have to ask you whether you can.

19 PROSPECTIVE JUROR: It would be difficult.
20 I've been at this for forty years.

21 THE COURT: Okay. When you're saying
22 difficult, I'm going to push you a little more.

23 PROSPECTIVE JUROR: I don't know really how
24 objective I could be given all of the evidence
25 presented. That's what I'm saying.

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1 THE COURT: So you feel that you have feelings
2 about it coming in?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Any questions?

5 MR. SIMONS: No questions.

6 MR. HALE: No.

7 THE COURT: Okay. I can't excuse you from
8 jury duty, Mr. Weiss.

9 PROSPECTIVE JUROR: I understand.

10 THE COURT: You have to go back downstairs to
11 the second floor.

12 (PROSPECTIVE JUROR EXCUSED)

13 (At this time, a prospective juror approached
14 at sidebar)

15 THE COURT: Good afternoon.

16 May I have your card, please.

17 Your name, sir?

18 PROSPECTIVE JUROR: John Schmidt.

19 THE COURT: Mr. Schmidt, you said you would
20 have difficulty sitting on a case like this?

21 PROSPECTIVE JUROR: I have a lot of anxiety.
22 I have a five-year-old, and my wife is expecting within
23 a month. I don't have a clear conscience right now. As
24 an unusual coincidence, below where we live there was a
25 murder six week ago. So, I'm uncomfortable sitting on

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1 such a case.

2 THE COURT: Did that incident happen in
3 Brooklyn?

4 PROSPECTIVE JUROR: Yes. Fifth Avenue, in
5 Sunset Park. It made the news.

6 THE COURT: So, you're saying --

7 PROSPECTIVE JUROR: I do not feel I can
8 consider evidence in such a case, you know, in an
9 unbiased way.

10 THE COURT: Any questions?

11 MR. SIMONS: No questions.

12 MR. HALE: No. Thank you.

13 THE COURT: I cannot excuse you from jury duty
14 in this case, Mr. Schmidt. The only thing I can do is
15 send you back downstairs to the second floor.

16 PROSPECTIVE JUROR: I understand.

17 Good luck with the case.

18 (PROSPECTIVE JUROR EXCUSED)

19 (At this time, a prospective juror approached
20 at sidebar)

21 THE COURT: Good afternoon.

22 May I have your card, please.

23 Your name?

24 PROSPECTIVE JUROR: Patricia Olds.

25 THE COURT: Miss Olds, you said based on the

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1 nature of the accusations that you would be unable to
2 sit as a juror?

3 PROSPECTIVE JUROR: I'm just very freaked out
4 right now. I'm uncomfortable. My father was a police
5 officer for fifteen years. I feel like I wouldn't be
6 able to be impartial in this situation. I'm very
7 freaked out.

8 THE COURT: Okay.

9 What kind of work do you do for a living?

10 PROSPECTIVE JUROR: I'm an actor and a
11 waitress. I just graduated.

12 THE COURT: You're saying that you wouldn't be
13 able to set your feelings aside and listen to the
14 evidence as it comes in in this case?

15 PROSPECTIVE JUROR: I have two nephews that
16 are young, and my sister is seven months pregnant. If
17 there's a child involved, I don't think I would be able
18 to handle that.

19 THE COURT: Any questions?

20 MR. SIMONS: No questions.

21 MR. HALE: No.

22 THE COURT: I can't excuse you, Miss Olds,
23 from jury duty. I have to send you back downstairs to
24 the second floor.

25 PROSPECTIVE JUROR: No problem.

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1 Thank you.

2 (PROSPECTIVE JUROR EXCUSED)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Good afternoon.

6 May I have your card, please.

7 Your name, sir?

8 PROSPECTIVE JUROR: My name is David
9 Leybengrub.

10 THE COURT: I asked you, sir, whether, in
11 fact, there was anything about the nature of the
12 accusations in this case.

13 PROSPECTIVE JUROR: Yeah. Due to the
14 children, I have three kids between the age of seven and
15 one, and I don't know, I think I'll get too emotional
16 based on this.

17 Also, I have a close friend of mine gunned
18 down.

19 THE COURT: Did that happen in Brooklyn?

20 PROSPECTIVE JUROR: In Brooklyn, Crown
21 Heights.

22 THE COURT: You don't think you could set
23 those experiences aside and listen to the evidence?

24 PROSPECTIVE JUROR: I could never put that
25 first experience aside because we had to go to the

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1 funeral and bury a 10-year-old.

2 THE COURT: Any questions?

3 PROSPECTIVE JUROR: No. I have my own kids,
4 and I think I'm going to get too emotional.

5 THE COURT: Any questions?

6 MR. HALE: Nothing from me.

7 MR. SIMONS: No.

8 THE COURT: I can't excuse you from jury duty,
9 sir. The only thing I can do is send you back
10 downstairs to the large room you came from, on the
11 second floor.

12 PROSPECTIVE JUROR: I understand.

13 THE COURT: Go there now, sir.

14 (PROSPECTIVE JUROR EXCUSED)

15 (At this time, a prospective juror approached
16 at sidebar)

17 THE COURT: Good afternoon.

18 May I have your card, please.

19 Your name, please?

20 PROSPECTIVE JUROR: Rashida Sheikh.

21 THE COURT: Miss Sheikh, you said that based
22 on the nature of the accusations that you don't think
23 you would be able to sit on this case?

24 PROSPECTIVE JUROR: Yes, because I am a
25 mother, I have two young kids. I don't think I would be

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1 able to, you know.

2 THE COURT: Miss Sheikh, I have to ask you
3 this. This is a tough question. You don't know if you
4 can do it or if you can't do it. You have to let me
5 know.

6 I'm going to ask you whether you can put those
7 feelings or hold those feelings aside and only listen to
8 the evidence as it comes in in this particular case?

9 PROSPECTIVE JUROR: I don't think so.

10 THE COURT: You don't believe you can do it?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Any questions?

13 MR. HALE: No.

14 MR. SIMONS: No.

15 THE COURT: I can't excuse you from jury duty;
16 the only thing I can do is excuse you from this case.
17 You have to go back downstairs to the second floor.

18 PROSPECTIVE JUROR: Thank you.

19 (PROSPECTIVE JUROR EXCUSED)

20 (At this time, a prospective juror approached
21 at sidebar)

22 THE COURT: Good afternoon.

23 May I have your card, please.

24 Your name, please?

25 PROSPECTIVE JUROR: Tara Foster.

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1 THE COURT: Miss Foster, certainly I asked
2 whether there was anything about the nature of the
3 accusations in this case that might prevent you from
4 being able to serve on this case?

5 PROSPECTIVE JUROR: Both the aspect of the
6 weapon used as well as the fact that a child was the
7 victim I think would bar me from being an impartial
8 juror.

9 THE COURT: Even though you haven't heard any
10 evidence up to this point?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: You're saying if you heard
13 evidence you would automatically make up your mind?

14 PROSPECTIVE JUROR: I don't think my emotions
15 tie into both of those issues that would make me see
16 passed the evidence.

17 THE COURT: Any questions?

18 MR. SIMONS: No questions.

19 MR. HALE: No. Thank you.

20 THE COURT: I can't excuse you from jury duty,
21 only from this case, Miss Foster. You have to go back
22 downstairs to the second floor.

23 (PROSPECTIVE JUROR EXCUSED)

24 (At this time, a prospective juror approached
25 at sidebar)

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1 THE COURT: Good afternoon.

2 May I have your card, please?

3 Your name, please?

4 PROSPECTIVE JUROR: Susan Webster.

5 THE COURT: Miss Webster, you said based on
6 the nature of the accusations in this case you couldn't
7 sit on this case?

8 PROSPECTIVE JUROR: I have eleven
9 grandchildren, and I don't think I could focus.

10 THE COURT: You think that would interfere
11 with your ability to listen to the evidence on this
12 case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Okay. And you couldn't put it
15 aside?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Okay. I have to ask the tough
18 questions. Okay?

19 Any questions?

20 MR. SIMONS: No questions.

21 MR. HALE: No.

22 THE COURT: Ma'am, I can't excuse you from
23 jury duty. The only thing I can do is send you back
24 downstairs to the second floor. You can go there now.

25 (Prospective juror crying)

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1 THE COURT: Certainly we don't mean to make
2 you upset, Miss Webster. Take a moment.

3 PROSPECTIVE JUROR: I'm okay.

4 THE COURT: Just calm down. It's not our
5 intent to make you upset.

6 PROSPECTIVE JUROR: Okay. Okay.

7 THE COURT: Are you going to be okay,
8 Miss Webster?

9 PROSPECTIVE JUROR: Yes. I'm just a big baby.

10 THE COURT: That's okay. We want you to be
11 okay. We don't want you to show emotion for those
12 jurors who can be fair and impartial. We don't want you
13 to do anything to affect them.

14 PROSPECTIVE JUROR: Can I go out the back door
15 or something?

16 MR. HALE: Just take a breath.

17 THE COURT: Just don't make any comments on
18 your way out.

19 PROSPECTIVE JUROR: Definitely not.

20 (PROSPECTIVE JUROR EXCUSED)

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good afternoon.

24 PROSPECTIVE JUROR: Hi.

25 THE COURT: May I have your card, please.

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1 Your name, please?

2 PROSPECTIVE JUROR: Wona Marie Magsuci.

3 THE COURT: Miss Magsuci, you said it would be
4 a hardship if you were to serve on this case based on
5 the accusations in this case?

6 PROSPECTIVE JUROR: I wouldn't be a good juror
7 in this case. My decision is already biased. I am a
8 nurse, we take care of the sick. We take care of them,
9 we don't kill them.

10 THE COURT: So you're saying just based on the
11 nature of the accusations you've already made up your
12 mind?

13 PROSPECTIVE JUROR: I don't need to listen. I
14 don't need to see the witness. I'm sorry.

15 THE COURT: But at the same time you haven't
16 heard any evidence.

17 PROSPECTIVE JUROR: A kid is helpless.

18 THE COURT: Any questions?

19 MR. SIMONS: No questions.

20 MR. HALE: No.

21 THE COURT: Ma'am, I can't excuse you from
22 jury duty. You have to go back downstairs to the second
23 floor.

24 PROSPECTIVE JUROR: Sure.

25 THE COURT: Go there now.

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1 Please don't make any comments on your way
2 out.

3 PROSPECTIVE JUROR: Okay.

4 (PROSPECTIVE JUROR EXCUSED)

5 (At this time, a prospective juror approached
6 at sidebar)

7 THE COURT: Good afternoon.

8 May I have your card, please.

9 Your name, please?

10 PROSPECTIVE JUROR: Margareta Goldzal.

11 THE COURT: Miss Goldzal, you said based on
12 the nature of the accusations in this case it would be
13 difficult for you to sit on this case?

14 PROSPECTIVE JUROR: Yeah. As a teacher, I
15 work with children all day. I don't think I would judge
16 him fairly. You know, I -- I'm also very emotional
17 because I'm expecting now. I don't think it would be
18 fair for me to sit on this because I get very emotional
19 when it comes to children, and I won't really judge him
20 fairly.

21 THE COURT: Let me ask you this question. I
22 have to ask the tough questions. I don't know whether
23 you can do it. You let me know. Whether, in fact, you
24 can hold your emotions aside and listen to the evidence
25 as it comes in and then make your decision based upon

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1 the evidence or the lack of evidence in this case? If
2 you can do it, you can. If you can't, that's fine.

3 PROSPECTIVE JUROR: I don't think I would.

4 THE COURT: Any questions?

5 MR. SIMONS: No questions.

6 MR. HALE: No.

7 THE COURT: Ma'am, I can't excuse you from
8 jury duty, only from this case. You have to go back
9 downstairs to the second floor.

10 PROSPECTIVE JUROR: Okay. Thank you.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar)

14 THE COURT: Good afternoon.

15 May I have your card, please.

16 Your name, sir?

17 PROSPECTIVE JUROR: Jacob Djmal.

18 THE COURT: Mr. Djmal, you indicated it would
19 be difficult for you to sit on this case based on the
20 nature of the accusations in this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Why?

23 PROSPECTIVE JUROR: Two weeks ago I was
24 walking in my area in Brooklyn and I was chased by some
25 guy. I was freaked out. I won't be too fair to this

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1 guy.

2 THE COURT: I have to ask you the tough
3 question. I don't know if you can do it. Certainly the
4 person who chased you is not the person who is on trial.

5 PROSPECTIVE JUROR: I understand. But I was
6 freaked out.

7 THE COURT: Let me ask you this: Do you think
8 you can put that experience aside that you had two weeks
9 ago and listen to the evidence as it comes in in this
10 particular case and judge the evidence in this
11 particular case? If you can do it, fine. If you
12 can't --

13 PROSPECTIVE JUROR: I'll tell you the truth.
14 I could be blinded a little bit because my mind is in
15 one direction. I'm not going to be thinking a hundred
16 percent clear.

17 THE COURT: I just want to make sure if you're
18 saying you're going to use your experience to influence
19 how you evaluate the evidence in this case?

20 PROSPECTIVE JUROR: I'm freaked out from crime
21 and things like that. I don't think I would be too
22 fair.

23 THE COURT: Okay.

24 Any questions?

25 MR. SIMONS: No.

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1 MR. HALE: No.

2 THE COURT: I can't excuse you from jury duty,
3 Mr. Djmal. The only thing I can do is send you back
4 downstairs to the second floor, the large room.

5 PROSPECTIVE JUROR: What do I do there?

6 THE COURT: You'll sit there and they'll tell
7 you.

8 (PROSPECTIVE JUROR EXCUSED)

9 (At this time, a prospective juror approached
10 at sidebar)

11 THE COURT: Good afternoon.

12 May I have your card, please.

13 Your name, please?

14 PROSPECTIVE JUROR: Zelma Hines.

15 THE COURT: Miss Hines, I asked whether there
16 was anything about the nature of the accusations in this
17 case that might prevent you from being able to sit
18 fairly.

19 PROSPECTIVE JUROR: Well, my nephew got killed
20 in October. It's too much pain for me to be on
21 something like this.

22 THE COURT: October of 2007?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Was anyone ever arrested as a
25 result of that?

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1 PROSPECTIVE JUROR: No.

2 THE COURT: And you're saying because of that
3 you don't believe you would be able to sit?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Any questions?

6 MR. HALE: No.

7 MR. SIMONS: No.

8 THE COURT: Thank you for your honesty,
9 Miss Hines.

10 I can't excuse you from jury duty, only from
11 this case. You have to go back downstairs to the second
12 floor, that large room. You need to go there now.

13 (PROSPECTIVE JUROR EXCUSED)

14 (At this time, a prospective juror approached
15 at sidebar)

16 THE COURT: Good afternoon.

17 May I have your card, please.

18 Your name, please?

19 PROSPECTIVE JUROR: Huandi Chen.

20 THE COURT: Miss Chen, you wanted to speak to
21 the Court?

22 PROSPECTIVE JUROR: Yes. I can speak English
23 a little bit.

24 THE COURT: You speak English a little bit.
25 How long have you been in this country?

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1 PROSPECTIVE JUROR: How long this country?

2 THE COURT: Yes. 10 years? 20 years?

3 PROSPECTIVE JUROR: No, 1999 in U.S.A.

4 THE COURT: Do you work, Miss Chen?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: What kind of work do you do?

7 PROSPECTIVE JUROR: I pack.

8 THE COURT: If understanding everything was
9 one hundred percent, how much would you say you
10 understood when I was talking?

11 PROSPECTIVE JUROR: I don't understand.

12 THE COURT: You didn't understand?

13 She's saying she didn't understand.

14 Barry, she's saying she doesn't understand
15 English.

16 I'm going to send you back downstairs to the
17 second floor.

18 PROSPECTIVE JUROR: In the second floor?

19 THE COURT: Yes.

20 (PROSPECTIVE JUROR EXCUSED)

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good afternoon.

24 May I have your card, please.

25 Your name, please?

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1 PROSPECTIVE JUROR: Lap Yee Soo.

2 THE COURT: Miss Soo, you said you wanted to
3 speak to the Court?

4 PROSPECTIVE JUROR: Speak not good.

5 THE COURT: You don't speak that much English?

6 PROSPECTIVE JUROR: No.

7 THE COURT: How long have been in the United
8 States, ma'am?

9 PROSPECTIVE JUROR: Nineteen years.

10 THE COURT: Nineteen years, and you don't
11 understand English after nineteen years?

12 PROSPECTIVE JUROR: A little bit.

13 THE COURT: What kind of work do you do,
14 Miss Soo?

15 PROSPECTIVE JUROR: Sample maker before.

16 THE COURT: What kind of work do you do now?

17 PROSPECTIVE JUROR: Now unemployed.

18 THE COURT: If understanding everything was
19 one hundred percent, how much would you say you
20 understood when I was talking?

21 PROSPECTIVE JUROR: A little bit. You were
22 saying the kid, the kid was killed; right?

23 THE COURT: What?

24 PROSPECTIVE JUROR: One is robbing and killed
25 something.

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1 THE COURT: She's saying she doesn't
2 understand everything.

3 MR. HALE: That's fine.

4 MR. SIMONS: No objection.

5 THE COURT: Miss Soo, I'm going to send you
6 back downstairs to the second floor since you say you
7 don't understand English. You can go there now.

8 PROSPECTIVE JUROR: Thank you.

9 (PROSPECTIVE JUROR EXCUSED)

10 (At this time, a prospective juror approached
11 at sidebar)

12 THE COURT: Good afternoon.

13 May I have your card, please.

14 Your name?

15 PROSPECTIVE JUROR: Kit Y. Lai.

16 THE COURT: Miss Lai, you said you wanted to
17 speak to the Court?

18 PROSPECTIVE JUROR: I feel nervous, and when
19 people speak fast, I can't pick up.

20 THE COURT: You're saying that when people
21 speak fast you don't understand?

22 PROSPECTIVE JUROR: Yes. I feel nervous.

23 THE COURT: Miss Lai, how long have you been
24 in this country?

25 PROSPECTIVE JUROR: Probably five years.

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1 THE COURT: Do you work, Miss Lai?

2 PROSPECTIVE JUROR: A housewife.

3 THE COURT: How much would you say you
4 understood when I was speaking? If understanding
5 everything is one hundred percent, how much would you
6 say that you understood?

7 PROSPECTIVE JUROR: I only can speak simple
8 English. Only to market.

9 THE COURT: Any questions?

10 MR. HALE: No.

11 MR. SIMONS: No.

12 THE COURT: Ma'am, I can't excuse you from
13 jury duty. I can only send you back downstairs to the
14 second floor. You can go there now.

15 PROSPECTIVE JUROR: Wait in the second floor?

16 THE COURT: Yes. Thank you.

17 (PROSPECTIVE JUROR EXCUSED)

18 (At this time, a prospective juror approached
19 at sidebar)

20 THE COURT: Good afternoon.

21 May I have your card, please.

22 Your name?

23 PROSPECTIVE JUROR: Yee L. Mai.

24 THE COURT: Miss Mai, you said that --

25 PROSPECTIVE JUROR: I don't know English.

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1 THE COURT: How long have you been in the
2 United States, Miss Mai?

3 PROSPECTIVE JUROR: (No response).

4 THE COURT: 30 years? 20 years?

5 PROSPECTIVE JUROR: I don't know.

6 THE COURT: Do you work?

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: What kind of work do you do?

9 PROSPECTIVE JUROR: (No response)

10 THE COURT: Any questions?

11 MR. HALE: No.

12 MR. SIMONS: No.

13 THE COURT: Ma'am, I cannot excuse you from
14 jury duty. You have to go back downstairs to the second
15 floor. You can go there now.

16 (PROSPECTIVE JUROR EXCUSED)

17 (At this time, a prospective juror approached
18 at sidebar)

19 THE COURT: Good afternoon.

20 PROSPECTIVE JUROR: Good afternoon.

21 THE COURT: May I have your card, please.
22 Your name, sir?

23 PROSPECTIVE JUROR: Dmitry.

24 THE COURT: The last name?

25 PROSPECTIVE JUROR: Gorenitsyn.

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1 THE COURT: Sir, you wanted to speak to the
2 Court? I asked you whether there was anything about the
3 nature of the accusations that might prevent you from
4 sitting on this case. You wanted to speak to the Court,
5 sir?

6 PROSPECTIVE JUROR: I mean, what it mean?

7 THE COURT: You asked to speak to the Court.
8 Do you understand English, sir?

9 PROSPECTIVE JUROR: I understand, but
10 sometimes I have issue. Sometimes I have difficulty
11 with English.

12 THE COURT: What language do you speak, sir?

13 PROSPECTIVE JUROR: Russian.

14 THE COURT: How long have you been in the
15 United States?

16 PROSPECTIVE JUROR: Seven years.

17 THE COURT: Do you work, sir?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: What kind of work do you do?

20 PROSPECTIVE JUROR: It's a plumbing company.

21 THE COURT: If understanding was one hundred
22 percent, how much would you say that you understood when
23 I was speaking, sir?

24 PROSPECTIVE JUROR: In general, but I couldn't
25 understand most of the details. I even have to ask my

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1 neighbor what happened to the child.

2 The second reason, I have a one-year-old
3 child, and I don't believe I can be enough objective in
4 this case.

5 THE COURT: Do you have any questions?

6 MR. SIMONS: No questions.

7 MR. HALE: No.

8 THE COURT: Sir, I cannot excuse you from jury
9 duty, so you don't get to go home. You have to go back
10 downstairs to the second floor. You can go there now.

11 PROSPECTIVE JUROR: Okay.

12 (PROSPECTIVE JUROR EXCUSED)

13 (At this time, a prospective juror approached
14 at sidebar)

15 THE COURT: Good afternoon.

16 May I have your card, please.

17 Your name, sir?

18 PROSPECTIVE JUROR: Te H. Ooi.

19 THE COURT: Mr. Ooi, I asked whether there was
20 anything about the nature of the case that might prevent
21 you from being fair in this case.

22 PROSPECTIVE JUROR: Yes. The reason I give,
23 my wife, my daughter is going away to Malaysia May 8th,
24 and I have a son 11 years old that I have to take care
25 of.

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1 THE COURT: Have you postponed your jury duty
2 in the past, sir?

3 PROSPECTIVE JUROR: No, this is the first time
4 this happened, I got the jury summons. They're coming
5 back on the 24th.

6 THE COURT: Let me say this: The reason that
7 you gave me, Mr. Ooi is not good enough for me to excuse
8 you. It's just your wife is going away.

9 PROSPECTIVE JUROR: My daughter.

10 THE COURT: I understand that. That's not
11 good enough for me to send you back downstairs just yet.
12 There may come a time that you will go downstairs,
13 Mr. Ooi.

14 (At this time, the prospective juror returned
15 to the audience)

16 MR. SIMONS: Juror excused, your Honor?

17 THE COURT: I would be inclined to excuse him,
18 but not at this time.

19 MR. SIMONS: Okay.

20 MR. HALE: Okay.

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good afternoon.

24 May I have your card, please.

25 Your name, please?

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1 PROSPECTIVE JUROR: Theodora Headley.

2 THE COURT: Miss Headley, I asked whether, in
3 fact, based on the nature of the accusations whether
4 there was anything that might prevent you from sitting
5 on this case?

6 PROSPECTIVE JUROR: Yeah. On June 5, 2005, I
7 was assaulted, and the person punched me in my face
8 twice, and I went back. My neighbor come to help. He's
9 spending three years now for that crime. I don't think
10 I can be fair with this.

11 THE COURT: You're saying you don't think you
12 can put your own personal experience aside and listen to
13 the evidence?

14 PROSPECTIVE JUROR: You know, that was the
15 third time I was assaulted. Three times. I don't think
16 I can.

17 THE COURT: It was the same person or --

18 PROSPECTIVE JUROR: No, three different times.
19 So I don't think I can. And I had to have x-rays for my
20 jaw for this last one.

21 THE COURT: Any questions?

22 MR. SIMONS: No questions.

23 MR. HALE: No.

24 Did they catch the people?

25 PROSPECTIVE JUROR: Yeah, they catch. He's

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1 spending three years.

2 THE COURT: Ma'am, I can't excuse you from
3 jury duty, I can only send you back downstairs to the
4 second floor. You probably can go back down there at
5 2:00.

6 (PROSPECTIVE JUROR EXCUSED)

7 (At this time, a prospective juror approached
8 at sidebar)

9 THE COURT: Good afternoon.

10 May I have your card, please.

11 Your name, please?

12 PROSPECTIVE JUROR: Lanzhen Tsui.

13 THE COURT: Miss Tsui, you said you wanted to
14 speak to the Court?

15 PROSPECTIVE JUROR: I just afraid the name you
16 read the case, I didn't even catch them all. I just
17 heard a child was killed. So, if I don't understand
18 everything, how can I be? That's what I'm worried
19 about.

20 THE COURT: What language do you speak?

21 PROSPECTIVE JUROR: I do speak English and do
22 my job very well. Just very narrow area.

23 THE COURT: What kind of job do you have,
24 ma'am?

25 PROSPECTIVE JUROR: I do payroll and general

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1 cashier. I do my job pretty good.

2 THE COURT: Is that at a corporation?

3 PROSPECTIVE JUROR: Hotel. I'm working at
4 hotel. I do speak English. I don't want to say I don't
5 speak. I do my job pretty good.

6 THE COURT: Right.

7 PROSPECTIVE JUROR: But I tried to understand
8 when you read the case.

9 THE COURT: Let me ask you this: If it's
10 legal terms, that's one thing. Certainly we'll explain
11 the legal terms in the law to you. My concern is the
12 fact that you said you didn't understand everything, if
13 it's English that is a problem, that's one thing. If
14 you're saying the legal terms you didn't understand --

15 PROSPECTIVE JUROR: I think that's the
16 language. Legal terms, whatever, you said you have to
17 tell the truth.

18 THE COURT: Yes.

19 PROSPECTIVE JUROR: That I can do. But I have
20 to understand what happened. I have to reach a judgment
21 yes or no. I have to understand first; right? So, if I
22 don't understand good, before saying that, I have to
23 know which is which. That's what I'm afraid.

24 THE COURT: You're saying you don't understand
25 everything one hundred percent; is that correct?

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1 PROSPECTIVE JUROR: Right.

2 When you read, the only thing I understand is
3 you said when child was killed. Then, of course, a lot
4 of details in this case.

5 THE COURT: She's saying she doesn't
6 understand everything one hundred percent.

7 MR. SIMONS: No questions.

8 MR. HALE: Okay.

9 THE COURT: Ma'am, I can't excuse you from
10 jury duty. You have to go back downstairs to the second
11 floor. You can go there at 2:00.

12 PROSPECTIVE JUROR: So I just go downstairs?

13 THE COURT: Yes.

14 (PROSPECTIVE JUROR EXCUSED)

15 (At this time, a prospective juror approached
16 at sidebar)

17 THE COURT: Good afternoon.

18 May I have your card, please.

19 Your name, please?

20 PROSPECTIVE JUROR: Henry Gbarjuewaye.

21 THE COURT: Mr. Gbarjuewaye, I asked whether
22 there was anything based on the nature of the
23 accusations in this case that may prevent you from being
24 fair and impartial in this case?

25 PROSPECTIVE JUROR: I had a brother who was

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1 killed in 2004. For me, I don't think I could be
2 impartial.

3 Also, I have a three-year-old daughter.

4 THE COURT: Your brother was killed here?

5 PROSPECTIVE JUROR: Yeah, it was in Brooklyn,
6 in Crown Heights. It was in the news.

7 THE COURT: Was anybody arrested?

8 PROSPECTIVE JUROR: Yeah, two guys.

9 THE COURT: You're saying based on that you
10 don't think you would be able to sit on this case?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Any questions?

13 MR. HALE: No questions.

14 MR. SIMONS: No questions.

15 THE COURT: Okay. You're excused.

16 You have to go back downstairs to the second
17 floor.

18 (PROSPECTIVE JUROR EXCUSED)

19 (At this time, a prospective juror approached
20 at sidebar)

21 THE COURT: Good afternoon.

22 May I have your card, please.

23 Your name, sir?

24 PROSPECTIVE JUROR: Jerzy Monasterski.

25 THE COURT: Sir, I asked you whether there was

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1 anything about the nature of the accusations that might
2 prevent you from sitting on this case and being fair and
3 you asked to speak to the Court; is that correct?

4 PROSPECTIVE JUROR: That's correct.

5 THE COURT: You're saying the nature of the
6 accusations about a child would just make you unable to
7 serve on this case, sir?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Is that correct?

10 PROSPECTIVE JUROR: Yeah.

11 THE COURT: You couldn't put that aside?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Is that a no?

14 PROSPECTIVE JUROR: I can't do like that, not
15 with the child. I have three kids.

16 THE COURT: Any questions?

17 MR. HALE: No.

18 MR. SIMONS: No.

19 THE COURT: Sir, you have to go back
20 downstairs to the second floor.

21 (PROSPECTIVE JUROR EXCUSED)

22 (At this time, a prospective juror approached
23 at sidebar)

24 THE COURT: Good afternoon.

25 May I have your card, please.

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1 Your name, sir?

2 PROSPECTIVE JUROR: Aleksandr Kobiler.

3 THE COURT: Mr. Kobiler, I asked whether there
4 was anything about the nature of the accusations that
5 might prevent you from sitting on this case and being
6 fair?

7 PROSPECTIVE JUROR: The problem is language.
8 When I hear you, it's maybe thirty, forty percent I
9 understand. Sometimes nothing. This is my problem.

10 THE COURT: What language do you speak?

11 PROSPECTIVE JUROR: Russian.

12 THE COURT: How long have you been in this
13 country?

14 PROSPECTIVE JUROR: 17 years.

15 THE COURT: Are you working, Mr. Kobiler?

16 PROSPECTIVE JUROR: Yes, I'm working. I'm a
17 driver.

18 THE COURT: You only understand --

19 PROSPECTIVE JUROR: Forty, sometimes fifty.
20 But not everything.

21 THE COURT: Any questions?

22 MR. HALE: No.

23 MR. SIMONS: No questions.

24 THE COURT: Sir, I cannot excuse you from jury
25 duty. You have to go back downstairs to the second

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1 floor. You'll do that at 2:00.

2 PROSPECTIVE JUROR: Okay. Thank you.

3 (PROSPECTIVE JUROR EXCUSED)

4 (At this time, a prospective juror approached
5 at sidebar)

6 THE COURT: Good afternoon.

7 May I have your card, please.

8 Your name, ma'am?

9 PROSPECTIVE JUROR: Gwendolyn Flowers.

10 THE COURT: Miss Flowers, I asked whether
11 based on the nature of the accusations in this case
12 whether that might prevent you from being fair and
13 impartial in this particular case?

14 PROSPECTIVE JUROR: I think so. I'm a
15 teacher, and I've been teaching for twenty-three years.
16 I just can't see anybody killing a child. I can't
17 justify that. I would have a hard time doing that.

18 THE COURT: Even though you haven't heard any
19 evidence, you don't think you could put that aside?

20 PROSPECTIVE JUROR: It's still a child
21 involved.

22 THE COURT: So you're saying you couldn't be
23 fair?

24 PROSPECTIVE JUROR: I don't think, no.

25 THE COURT: Any questions?

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1 MR. SIMONS: No questions.

2 MR. HALE: No.

3 THE COURT: I can't excuse you from jury duty.
4 I'm only going to send you back downstairs to the second
5 floor. You can go there at 2:00.

6 PROSPECTIVE JUROR: Okay.

7 (PROSPECTIVE JUROR EXCUSED)

8 (The following occurred in open court in the
9 presence of the panel of prospective jurors:)

10 THE COURT: Certainly, jurors, at this point
11 we are close to the luncheon recess, so I will, in fact,
12 permit you to take your luncheon recess.

13 Before doing that, certainly there are some
14 rules and guidelines that I must give you.

15 The first is that you may not discuss any
16 aspect of this case amongst yourselves, because you
17 haven't heard any evidence, and it would be unfair to
18 speculate about the evidence that you will hear.

19 Also, jurors, you certainly have met, I
20 introduced you to the parties in this case. You cannot
21 speak to them. You cannot ask them: How long do I have
22 to be here? When do we get started? When can I leave?
23 They will not speak to you. It's not that they're being
24 rude, but they're following the instructions of the
25 Court. Because if they're seen talking to you, the

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1 assumption is that they're talking to you about this
2 case. So, please, do not speak to them. They will not
3 speak to you.

4 Jurors, at this point, you'll return--I do
5 have one other matter--so I'm going to permit you to
6 return at 2:30.

7 When you return at 2:30, you will come
8 directly back outside of this courtroom. Do not enter
9 the courtroom until one of the court officers has come
10 out to bring you in. That is important. Do not enter
11 this courtroom on your own.

12 That being said, I'll see you at 2:30.

13 Exit the courtroom quietly, and thank you for
14 your consideration.

15 (At this time, the panel of prospective jurors
16 left the courtroom)

17 THE COURT: Okay. We'll meet back at 2:30.

18 * * * *

19 (At this time, a luncheon recess was taken,
20 and the trial adjourned to 2:30 p.m.)

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24

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A F T E R N O O N S E S S I O N

THE CLERK: Case on trial, General Waiters.
The defendant is present with his attorney.
The district attorney is present.

THE COURT: Good morning.

I know we originally said approximately --
Mr. Hale, you said, four days. But the way that I see
this case going, I'm going to tell the prospective
jurors six to nine days. I think we would be lucky to
do it within that period of time, depending upon how
many jurors we get today.

MR. HALE: I understand that, your Honor. I
didn't know if you were talking about from today or
business days.

THE COURT: I like to keep it fuzzy, because
if I'm too specific and it goes a day over, I don't want
jurors to scream.

MR. HALE: You never want to get nailed down
on that, you're right.

THE COURT: Are both sides ready?

MR. SIMONS: Yes.

MR. HALE: Sure.

THE COURT: I do use a questionnaire, and at
the appropriate time, you will be given a copy of the

1 questionnaire.

2 (Pause in the proceedings)

3 COURT OFFICER: Panel entering.

4 (At this time, the panel of prospective jurors
5 entered the courtroom)

6 THE COURT: Thank you, jurors.

7 What's going to happen is names will be called
8 to have a seat in the jury box, so eventually you'll
9 have more room. So, I appreciate your patience.

10 Juror, certainly, where I left off, I was
11 telling you about the nature of the accusation.
12 Certainly, jurors, we would expect this case would take
13 approximately six to nine days to try. We would be
14 starting with testimony on Monday, May 5th, in this
15 case.

16 Is there anyone who, by reason of extreme
17 hardship, could not serve until that time?

18 If so, I would ask that you raise your hand.

19 (HANDS RAISED)

20 THE COURT: Okay. I see two hands, and I'll
21 speak to those individuals at sidebar.

22 (The following occurred at sidebar out of the
23 hearing of the panel of prospective jurors:)

24 (At this time, a prospective juror approached
25 at sidebar)

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1 THE COURT: Good afternoon.

2 May I have your card, please.

3 Your name?

4 PROSPECTIVE JUROR: Fatima Marcelle.

5 THE COURT: Miss Marcelle, you said it would
6 be a hardship if you had to serve six to nine days,
7 ma'am?

8 PROSPECTIVE JUROR: I'm currently living in a
9 shelter due to loss of job and home. I have mandatory
10 appointments with Housing starting next week, and the
11 week after.

12 Also, I have appointments for medical purposes
13 also that's coming up.

14 THE COURT: Okay. Do you have anything
15 scheduled at this point?

16 PROSPECTIVE JUROR: Yes, I do. I have one
17 tomorrow. Every day is an appointment. For me, with
18 HRA, Housing, medical, both my husband and myself.

19 THE COURT: Okay. Let me ask you this, and
20 certainly you'll let me know. I know normally in a
21 situation like that where a person is on jury duty, they
22 would make accommodations for a person serving on jury
23 duty.

24 PROSPECTIVE JUROR: Okay.

25 THE COURT: So I'm asking would that address

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1 the concerns that you have?

2 PROSPECTIVE JUROR: Yes. Because if I don't
3 meet with HRA, they would close my case, and that would
4 keep me forty-five days more.

5 THE COURT: If, in fact, we were able to
6 contact them to actually let them know that you're
7 serving on jury duty, would that address the concerns
8 that you have?

9 PROSPECTIVE JUROR: I don't know if that would
10 happen, if they would agree to it. I don't know. HRA
11 says one thing and does something else. I couldn't say
12 yes; I couldn't say no.

13 THE COURT: Let me say this. If you're
14 actually on jury duty, I don't know if you're saying
15 you're disabled, if you're actually on jury duty and not
16 attending your sessions, they shouldn't close your case.
17 We all know things can fall through the cracks. That
18 wouldn't be a basis for closing your case, if you're
19 serving on jury duty.

20 PROSPECTIVE JUROR: This is all knew to me.
21 This is what I'm saying. I don't know.

22 THE COURT: Would that affect your ability to
23 concentrate on the evidence in this case?

24 PROSPECTIVE JUROR: Because of my medical,
25 yes. I'm seeing a cardiologist; I'm see a psychiatrist.

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1 I'm having problems with my heart. Right now, I'm in a
2 lot of pain.

3 THE COURT: How old are you, ma'am?

4 PROSPECTIVE JUROR: I'm 52.

5 THE COURT: How long have you had the cardiac
6 problem?

7 PROSPECTIVE JUROR: It's now assessing. Since
8 last year.

9 THE COURT: Okay. Do you feel that the
10 medical problems that you have with interfere with your
11 ability to sit on this particular case?

12 PROSPECTIVE JUROR: The pain with my legs,
13 yes.

14 THE COURT: Any questions?

15 MR. SIMONS: No questions.

16 MR. HALE: No questions.

17 THE COURT: I can't excuse you from jury duty.
18 I can only send you back downstairs to the second floor.

19 PROSPECTIVE JUROR: Okay.

20 THE COURT: You can go there now.

21 PROSPECTIVE JUROR: Thank you.

22 (PROSPECTIVE JUROR EXCUSED)

23 (At this time, a prospective juror approached
24 at sidebar)

25 THE COURT: Good afternoon.

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1 May I have your card, please.

2 Your name?

3 PROSPECTIVE JUROR: Yvone Findlay.

4 THE COURT: Miss Findlay, you said it would be
5 a hardship if you had to serve six to nine days?

6 PROSPECTIVE JUROR: Right, because I do
7 contract work. No work, no pay.

8 THE COURT: What kind of work do you do?

9 PROSPECTIVE JUROR: Health insurance. I audit
10 their applications.

11 THE COURT: How long have you been doing that?

12 PROSPECTIVE JUROR: I've been doing that since
13 September of last year. On a contract basis.

14 THE COURT: Have you postponed your jury duty
15 in the past, Miss Findlay?

16 PROSPECTIVE JUROR: No, I served four years
17 ago. I had a full-time job then.

18 THE COURT: I'm talking about when you got the
19 card this time.

20 PROSPECTIVE JUROR: No, I didn't.

21 THE COURT: Is there a reason why you didn't
22 attempt to postpone?

23 PROSPECTIVE JUROR: Well, I figured one day it
24 wouldn't hurt.

25 THE COURT: There's no case that can be tried

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1 in one day, Miss Findlay.

2 Let me say this, that the reason that you gave
3 me is not good enough. I'm not telling you that we're
4 going to pick you. I'm saying the reason that you gave
5 me is not good enough for me to send you back downstairs
6 just yet. There may be a time that you will go back
7 downstairs, but not at this time.

8 You can have a seat in the audience.

9 PROSPECTIVE JUROR: Okay, thanks.

10 (At this time, the prospective juror returned
11 to the audience)

12 THE COURT: Counsel, I'm prepared to excuse
13 her, but not at this time.

14 MR. SIMONS: Okay.

15 MR. HALE: Okay. Yes.

16 (At this time, a prospective juror approached
17 at sidebar)

18 THE COURT: May I have your card, please.
19 Your name, sir?

20 PROSPECTIVE JUROR: My name is Wen Wu.

21 THE COURT: Mr. Wu, you said it would be a
22 hardship if you had to serve six to nine days?

23 PROSPECTIVE JUROR: Yes, during that time, for
24 me, I got college.

25 THE COURT: What college do you go to?

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1 PROSPECTIVE JUROR: Kingsborough.

2 THE COURT: When are your finals scheduled?

3 PROSPECTIVE JUROR: The 12th, 13th. That's
4 the first week of finals. The 5th, that's the last week
5 of classes, to hand in all works and projects and hand
6 in papers.

7 THE COURT: Have you postponed your jury duty
8 in the past, Mr. Wu?

9 PROSPECTIVE JUROR: No, this is the first
10 time.

11 THE COURT: Let me say this, the reason that
12 you gave me is not good enough for me to send you back
13 downstairs just yet. I'm not telling you we're going to
14 pick you to serve, but it's not good enough for me to
15 send you back downstairs just yet.

16 Have a seat.

17 (At this time, the prospective juror returned
18 to the audience)

19 THE COURT: Again, I'll probably excuse him,
20 but not at this time.

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good afternoon.

24 May I have your card, please.

25 Your name, sir?

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1 PROSPECTIVE JUROR: Jacques Sadda.

2 THE COURT: Mr. Sadda, you said it would be a
3 hardship for you if you had to serve six to nine days,
4 sir?

5 PROSPECTIVE JUROR: I have a pain in my legs.
6 I cannot stand all the time.

7 THE COURT: Do you work, sir?

8 PROSPECTIVE JUROR: Yeah, I work.

9 THE COURT: What kind of work do you do?

10 PROSPECTIVE JUROR: I walk and sit down.

11 THE COURT: What kind of work do you do?

12 PROSPECTIVE JUROR: I'm a manager in the
13 store. I'm sitting down. Two employee work with me in
14 the store. Right now, I have --

15 THE COURT: What's wrong with your leg, sir?

16 PROSPECTIVE JUROR: See, it's swollen here. I
17 have to make operation for two legs. I have accident
18 before, long time ago, and I don't feel good. I have
19 very pain.

20 THE COURT: Sir, you don't have to pull up
21 your pant leg.

22 Are you taking any medication for that
23 condition?

24 PROSPECTIVE JUROR: Yes, I have medication.

25 THE COURT: I can't tell what a pill in your

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1 hand is.

2 PROSPECTIVE JUROR: I don't take it today
3 because I'm just issue; I don't eat some Kosher food
4 from here. I appreciate if you give me water, I take
5 it, please.

6 THE COURT: Let me say, sir, I don't know what
7 that is.

8 How old are you, sir?

9 PROSPECTIVE JUROR: 56.

10 THE COURT: If you're saying you have a
11 medical condition --

12 Do you have any questions?

13 MR. HALE: No.

14 MR. SIMONS: No.

15 THE COURT: Sir, I can't excuse you from jury
16 duty. Everyone has to serve. I'm going to send you
17 back downstairs to the second floor, that large room you
18 came from. You can go there now. Go down to the second
19 floor. I can only excuse you from this case, not from
20 serving on jury duty, sir.

21 PROSPECTIVE JUROR: Okay.

22 (PROSPECTIVE JUROR EXCUSED)

23 (At this time, a prospective juror approached
24 at sidebar)

25 THE COURT: Good afternoon.

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1 May I have your card, please.

2 Your name, please?

3 PROSPECTIVE JUROR: Mildred Torres. There is
4 a physical I have for my job. I work in a day care
5 center.

6 THE COURT: When is this scheduled?

7 PROSPECTIVE JUROR: Right here.

8 And, in my job, if I miss two days, we get
9 written down.

10 THE COURT: Okay. Let me say this, if we were
11 able to reschedule that for you, would that make a
12 difference?

13 PROSPECTIVE JUROR: I really have to do it,
14 because it's two days we have where we call, that's it,
15 where we make the appointment. On the 19th is the due
16 day, and I'm supposed to have it done.

17 THE COURT: Let me ask you this: If we're
18 able to get it scheduled for you before then or to work
19 with you to have it earlier in the day, would that make
20 a difference, Miss Torres?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Would you be able to serving if
23 that were the case?

24 PROSPECTIVE JUROR: Yes. But I really have to
25 do it.

1 THE COURT: I'm saying if we made
2 arrangements, either having it done earlier in the day
3 or maybe breaking later in the afternoon so you can go
4 and get that done, if we had it rescheduled to
5 accommodate you, would that be the only concern you
6 would have?

7 PROSPECTIVE JUROR: Yes, yes.

8 THE COURT: Okay. Let me say this, if, in
9 fact, you're selected, we know we would have to make
10 arrangements for you to go.

11 PROSPECTIVE JUROR: Sure.

12 THE COURT: Is that the only concern you have?

13 PROSPECTIVE JUROR: It's my job. They're so
14 strict with this.

15 THE COURT: If we address that concern, your
16 job concern, is that the only issue that would prevent
17 you from serving on this case?

18 PROSPECTIVE JUROR: Not really. I don't know.

19 THE COURT: I'm saying, if we could get your
20 physical done, is that it? Is that the only concern
21 that you have?

22 PROSPECTIVE JUROR: Yes, yes.

23 THE COURT: That's what I was trying to ask
24 you.

25 PROSPECTIVE JUROR: I'm sorry. I'm nervous.

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1 THE COURT: Okay. So, if you're selected, we
2 know we have to get that done. That's not a problem.

3 PROSPECTIVE JUROR: Yes, yes.

4 THE COURT: We would accommodate you to get it
5 done. Okay?

6 PROSPECTIVE JUROR: Okay.

7 That's why I said at least I bring it in at
8 least to let you know I'm not lying.

9 THE COURT: Okay. You can have a seat in the
10 audience.

11 (At this time, the prospective juror returned
12 to the audience)

13 THE COURT: Counsels, I'm going to make her a
14 regular juror. We'll just have to make arrangements.

15 MR. SIMONS: Okay.

16 MR. HALE: Okay.

17 (At this time, a prospective juror approached
18 at sidebar)

19 THE COURT: Good afternoon:
20 May I have your card, please.

21 Your name?

22 PROSPECTIVE JUROR: Linda Lalima.

23 THE COURT: Miss Lalima, you said it would be
24 a hardship for you if you had to serve six to nine days?

25 PROSPECTIVE JUROR: I have a temp job through

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1 an agency. If I'm here, I won't be getting paid through
2 my job. I don't think the agency either.

3 THE COURT: How long have you been doing temp
4 work?

5 PROSPECTIVE JUROR: With this job, I'm there
6 over a year. A year and about four, five months.

7 THE COURT: Have you postponed your jury duty
8 in the past?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Let me say this, the reason you
11 gave me is not good enough to exclude you. I'm not
12 saying we're going to pick you.

13 PROSPECTIVE JUROR: I understand that.

14 THE COURT: Certainly, it's not good enough
15 for me to send you downstairs just yet. There may be a
16 time when you will be sent downstairs, but not yet.

17 (At this time, the prospective juror returned
18 to the audience)

19 THE COURT: Counsel, I will excuse her, but
20 not at this time.

21 MR. HALE: Yes.

22 MR. SIMONS: Yes.

23 (At this time, a prospective juror approached
24 at sidebar)

25 THE COURT: Good afternoon.

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1 May I have your card, please.

2 Your name, sir?

3 PROSPECTIVE JUROR: My name is Morel Georges.

4 THE COURT: Mr. Georges, you said it would be
5 a hardship, sir, if you had to serve six to nine days?

6 PROSPECTIVE JUROR: See, I don't believe in
7 the system.

8 THE COURT: When you say you don't believe in
9 the system, the system of justice?

10 PROSPECTIVE JUROR: I see too many things
11 here. I don't believe in the system.

12 THE COURT: Well, let me say this, sir, this
13 is the only system we have. Sometimes it works, and
14 sometimes, to your way of thinking, it may not work.
15 However, what I'm asking you, and what every defendant
16 is entitled to, is to have a trial by a jury and to have
17 a jury listen to the evidence and then make a decision
18 based upon the evidence or the lack of evidence.

19 So, what I'm asking you is whether you can put
20 aside your personal opinion in general about what you
21 think about the justice system and listen to the
22 evidence as it comes in in this particular case?

23 PROSPECTIVE JUROR: I don't judge people
24 myself. That's my problem.

25 THE COURT: We're not asking you to judge a

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1 person. What we're asking you is to judge the quality
2 of the evidence that will be presented to you and then
3 make a decision, whether you can call it straight up and
4 down as you see it?

5 PROSPECTIVE JUROR: Sometimes I can make the
6 wrong decision, too.

7 THE COURT: Do you have any questions?

8 MR. SIMONS: No.

9 MR. HALE: No.

10 THE COURT: As I said, this is the only system
11 we have, and certainly that's one of the benefits you
12 have of living in this country, to be certainly a
13 beneficiary of this justice system.

14 I'm going to send you back downstairs, sir.

15 You can go there now.

16 (PROSPECTIVE JUROR EXCUSED)

17 (At this time, a prospective juror approached
18 at sidebar)

19 THE COURT: Good afternoon, ma'am.

20 May I have your card, please.

21 Your name?

22 PROSPECTIVE JUROR: Zelda Hyll.

23 THE COURT: Miss Hyll, you said it would be a
24 hardship if you had to serve for six to nine days?

25 PROSPECTIVE JUROR: No, it's not a hardship.

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1 If it's going over like to the 12th, I'm scheduled to go
2 to a conference from the 12th, 13th, 14th. But from now
3 on, this week, next week, I'm okay.

4 THE COURT: The 12th would be that Monday. Is
5 it in connection with your job?

6 PROSPECTIVE JUROR: I'm not working. I'm an
7 evangelist. I going away for a training conference. I
8 already booked and everything.

9 THE COURT: Have you postponed your jury
10 service in the past, Miss Hyll?

11 PROSPECTIVE JUROR: Never.

12 THE COURT: Let me say this, ma'am. I can't
13 excuse you from jury duty.

14 PROSPECTIVE JUROR: You can't?

15 THE COURT: The only thing I can do is send
16 you back downstairs to the large room that you came
17 from.

18 You can go there now.

19 PROSPECTIVE JUROR: But I think you said it
20 would be like six days.

21 THE COURT: No, no. I'm sending you back
22 downstairs.

23 PROSPECTIVE JUROR: I know. But you said this
24 case would take six days.

25 THE COURT: Approximately six to nine days.

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1 Approximately. Maybe less; maybe close to nine. That's
2 why I'm saying I don't want to put you in a position
3 where you'll be unable to serve.

4 So you have to go back downstairs.

5 You can go there now.

6 PROSPECTIVE JUROR: Thanks.

7 (PROSPECTIVE JUROR EXCUSED)

8 (At this time, a prospective juror approached
9 at sidebar)

10 THE COURT: Good afternoon.

11 May I have your card, please.

12 Your name, please?

13 PROSPECTIVE JUROR: Guadalupe Rosales.

14 THE COURT: You indicated it would be a
15 hardship if you had to serve six to nine days, ma'am?

16 PROSPECTIVE JUROR: Yes, because I'm traveling
17 on Friday. I already changed my flight information to
18 come to this, but then I'm flying on Friday to the 13th.

19 THE COURT: Have you postponed your jury duty
20 in the past, Miss Rosales?

21 PROSPECTIVE JUROR: No.

22 THE COURT: When they sent you the card
23 telling you you had jury duty, did you ask to put it
24 over for another date.

25 PROSPECTIVE JUROR: No.

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1 THE COURT: Is there any reason you didn't ask
2 to put it over for another time?

3 PROSPECTIVE JUROR: I mean, I'm here. This is
4 the 30th.

5 THE COURT: Okay. Let me say this, ma'am.
6 The reason that you gave me is not good enough for me to
7 send you back downstairs just yet. I'm not telling you
8 we're going to pick you, but it's not good enough for me
9 to send you downstairs just yet.

10 PROSPECTIVE JUROR: Okay.

11 (At this time, the prospective juror returned
12 to the audience)

13 THE COURT: Counsel, I would excuse her, but
14 not at this time.

15 MR. HALE: Okay.

16 MR. SIMONS: Yes.

17 (At this time, a prospective juror approached
18 at sidebar)

19 THE COURT: Good afternoon.
20 May I have your card, please.

21 Your name, please?

22 PROSPECTIVE JUROR: Norenda Peterslubin.

23 THE COURT: You indicated it would be a
24 hardship if you had to serve the six to nine days?

25 PROSPECTIVE JUROR: Yes.

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1 THE COURT: Why is that?

2 PROSPECTIVE JUROR: Because I just returned
3 back to work two months ago after being out of work. I
4 had a hard pregnancy, for six months I was out. I'm way
5 behind on my mortgage and all my bills right now. I'm
6 playing catch-up. So, I have to be working overtime to
7 keep my house out of foreclosure.

8 THE COURT: What kind of work do you do,
9 ma'am?

10 PROSPECTIVE JUROR: I work in the emergency
11 room at Maimonides.

12 THE COURT: Let me say this. How long have
13 you been working there?

14 PROSPECTIVE JUROR: Well, overall, a year.
15 But I was out my first six whole months of that year
16 working there. I just returned back to work on
17 February 25th.

18 THE COURT: Would that prevent you from
19 concentrating on the evidence on this particular case?

20 PROSPECTIVE JUROR: Well, my bills are all
21 like past due. I'm playing catch-up. The length of
22 time is the problem. I don't mind serving because
23 that's my duty. It's just the length of time. I can't
24 afford to be out for that long a period of time.

25 THE COURT: What I'm asking you, if, in fact,

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1 you were selected to serve, the fact that you have the
2 issue --

3 PROSPECTIVE JUROR: Yes, because I have
4 creditors calling me every day.

5 THE COURT: Do you have any questions?

6 MR. HALE: No.

7 MR. SIMONS: No questions.

8 THE COURT: Ma'am, I can't excuse you from
9 jury duty. I can only send you back downstairs to the
10 second floor.

11 PROSPECTIVE JUROR: I understand.

12 THE COURT: Go there now.

13 (PROSPECTIVE JUROR EXCUSED)

14 (The following occurred in open court in the
15 presence of the panel of prospective jurors:)

16 THE COURT: Certainly, jurors, there's no one
17 who knows you like you know yourself. Therefore, we
18 have to depend upon you to tell us anything that you
19 think may interfere with your judgment of this case, and
20 certainly anything that may cause you to be distracted
21 from the evidence in this case. That would include any
22 physical conditions that you may have that would cause
23 you to be distracted from the case at hand.

24 Now, jurors, if any such problem comes to
25 mind, you can always ask to approach the bench and speak

1 to the Court privately.

2 Jurors, I will now state to you certain basic
3 principles of law that you must accept, whether you
4 agree with these principles of law or not, or even if
5 you believe that the law should be something other than
6 what it actually is, and you must accept these
7 principles of law without hesitation and without
8 reservation.

9 Again, as I said, if you cannot accept any one
10 of these principles of law, then you must raise your
11 hand and so indicate that so that we can discuss those
12 areas together.

13 Jurors, the defendant was brought into this
14 courtroom by way of an indictment. The indictment is a
15 name given to a piece of paper.

16 Jurors, an indictment is not proof of
17 anything. It is only the means by which this defendant
18 has been brought into court, and it outlines the
19 complaint against the defendant.

20 Jurors, an indictment is only an accusation of
21 a crime, and you cannot infer that a defendant is guilty
22 because he has been arrested and because he has been
23 indicted by a Grand Jury.

24 Can each of you accept that fact?

25 Jurors, I can't hear you.

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1 (AFFIRMATIVE RESPONSE FROM JURORS)

2 THE COURT: Is there any one of you who cannot
3 accept that fact?

4 I would ask that you raise your hand high so
5 that we can explore that area together.

6 (NO HAND RAISED)

7 THE COURT: Jurors, I can tell you now that
8 there are no right or wrong answers, only truthful
9 answers. Because the worse thing that you can do is
10 give us an answer that you think we wish to hear, and
11 then during the course of your deliberations you find
12 that there is something in your background that you have
13 not told us that will prevent you from giving a fair
14 trial to these parties that are in this courtroom.

15 Now, jurors, the defendant comes into this
16 courtroom when he answers the indictment by pleading not
17 guilty. The law provides that the defendant is presumed
18 innocent until proven guilty beyond a reasonable doubt.

19 Jurors, can each of you accept the fact that
20 at this point this defendant is innocent of all crimes
21 against him?

22 Can everyone accept that fact?

23 (AFFIRMATIVE RESPONSE FROM JURORS)

24 THE COURT: Is there any one of you who cannot
25 accept that fact?

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1 I would ask that you raise your hand high so
2 that we can explore that area together.

3 (NO HAND RAISED)

4 THE COURT: Again, I don't see any hands.

5 Jurors, you understand that because of these
6 concepts and because you have not heard any evidence up
7 to this point, if you were asked to vote right now, you
8 would have to vote that the defendant is not guilty.

9 Can each of you accept that fact?

10 (AFFIRMATIVE RESPONSE FROM JURORS)

11 THE COURT: Is there any one of you who could
12 not accept that fact?

13 I would ask that you raise your hand high so
14 that we can explore that area together.

15 (NO HAND RAISED)

16 THE COURT: Again, I don't see any hands.

17 Jurors, do any of you feel that because
18 Mr. Waiters has been brought into court on an indictment
19 and arrested, that he must be guilty of something?

20 Does any one feel that way?

21 (NEGATIVE RESPONSE FROM JURORS)

22 THE COURT: Okay.

23 Because if any of you do, I would ask that you
24 raise your hand high so that we can explore that area
25 together.

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1 (NO HAND RAISED)

2 THE COURT: Again, I don't see any hands.

3 Now, jurors, the law grants this defendant the
4 presumption of innocence throughout the trial. The law
5 has placed the burden to prove that the defendant is
6 guilty beyond a reasonable doubt on the shoulders of the
7 District Attorney's Office. That burden of proof never
8 shifts.

9 Jurors, please bear in mind that the defendant
10 in this case need not prove anything. The law says that
11 if the prosecution meets its burden and proves that the
12 defendant is guilty beyond a reasonable doubt, it will
13 be your responsibility as a juror to find the defendant
14 guilty.

15 Now, jurors, can you find the defendant guilty
16 if the People prove his guilt to you beyond a reasonable
17 doubt?

18 Can everyone do that?

19 (AFFIRMATIVE RESPONSE FROM JURORS)

20 THE COURT: Jurors, is there any one of you,
21 because of religion, moral, or other reasons, feel that
22 you would be unable to do that?

23 I would ask that you raise your hand high so
24 that we can explore that area together.

25 (NO HAND RAISED)

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1 THE COURT: Again, I don't see any hands.

2 Jurors, if identity is an issue, then, of
3 course, the People must also prove beyond a reasonable
4 doubt that the defendant was, in fact, the person who
5 committed the offenses charged.

6 Jurors, under our system of law, the defendant
7 is not obligated to take the witness stand or to call
8 any witnesses in this case.

9 Now that means that the defendant's attorney
10 does not have to participate during jury selection, he
11 does not have to make an opening statement--whereas, the
12 District Attorney's Office, by law, is required to make
13 an opening statement in this case, defense counsel does
14 not have to object to a single question that will be put
15 to any of the witness, and defense counsel does not have
16 to sum up at the end of the case, because a defense has
17 no obligation or burden to do anything whatsoever.

18 Now, jurors, the defendant in this case has
19 the right to remain silent and not testify.

20 If he exercises the right to remain silent,
21 you're not to presume anything or speculate as to why he
22 did not testify. The fact that he did not testify is
23 not to enter into your deliberations.

24 I know often times jurors will say to me, you
25 know what, Judge, I need to hear from both sides and

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1 then I'll make up my mind. But that is not the law.

2 Jurors, certainly, the defendant has no
3 obligation to testify or to call any witnesses in this
4 case. Certainly I will say to you, jurors, that this
5 will be unlike any other experience that you will ever
6 have in life, because in this courtroom, certainly
7 you're only entitled to hear from one side, and that is
8 the side of the District Attorney's Office. Because if,
9 in fact, a person is accused of committing a crime, it
10 is up to the District Attorney to prove that the
11 individual committed that crime, and they have to do
12 that beyond a reasonable doubt.

13 Now, jurors, would you be able to, if the
14 defendant does not testify in this case, hold the People
15 to their burden of proof of establishing guilt beyond a
16 reasonable doubt based solely on the evidence as
17 introduced by the People and the law as I give it to
18 you?

19 Can everyone do that?

20 (AFFIRMATIVE RESPONSE FROM JURORS)

21 THE COURT: Is there anyone who would be
22 unable to do that?

23 I would ask that you raise your hand high so
24 that we can explore that area together.

25 (NO HAND RAISED)

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1 THE COURT: Again, I don't see any hands.

2 Jurors, please keep in mind that if the
3 defendant chooses to testify on his own behalf or to
4 call a witness on his own behalf, this does not shift
5 the burden of proof from the District Attorney's Office.
6 Again, the District Attorney's Office always has the
7 burden to establish guilt beyond a reasonable doubt.

8 Now, I will define reasonable doubt at the end
9 of the trial, but, in substance, a reasonable doubt is
10 not a mere possibility or a whim or a speculation which
11 is unrelated to the evidence. Rather, jurors, it is a
12 doubt which you have in your mind after you have
13 considered all of the evidence in the case, and when,
14 after such consideration of all of the evidence in the
15 case, either the presence of certain facts or the
16 absence of certain facts leaves your mind in such a
17 state of uncertainty that you're not fully convinced of
18 the defendant's guilt, and you're also satisfied that in
19 entertaining such a doubt you are acting as a reasonable
20 person should act in a matter of this importance,
21 jurors, then that sort of doubt which seems reasonable
22 to you is a reasonable doubt.

23 Now, jurors, can you find the defendant not
24 guilty if you have a reasonable doubt of his guilt?

25 Can everyone do that?

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1 (AFFIRMATIVE RESPONSE FROM JURORS)

2 THE COURT: Is there any one of you who would
3 be unable to do that?

4 I would ask that you raise your hand high so
5 that we can explore that area together.

6 (NO HAND RAISED)

7 THE COURT: Again, I don't see any hands.

8 Jurors, let me say this, that you may not
9 consider the issues of punishment, sympathy, or
10 prejudice in your verdict.

11 Now, is there any one of you who could not
12 eliminate the feelings of punishment, sympathy or
13 prejudice in your verdict?

14 If you feel that way, I would ask that you
15 raise your hand high so that we can explore that area
16 together.

17 Again, jurors, I would remind you that there
18 are no right or wrong answers, only truthful answers.

19 (NO HAND RAISED)

20 THE COURT: Again, I don't see any hands.

21 Now, jurors, at the end of this case, you will
22 be called upon to make a factual judgment. Jurors,
23 you're not here to make a moral judgment or to determine
24 whether or not Mr. Waiters is a good or a bad person.
25 Jurors, what is on trial in this courtroom is what, if

1 any, involvement Mr. Waiters had with the incident which
2 occurred on May 7, 2006.

3 Now, as I told you at the outset, you must
4 evaluate the testimony of every witness that you hear in
5 this case, and you must then determine whether the
6 witness who testified is telling the truth and whether
7 their testimony is reliable testimony.

8 Jurors, you will have to listen carefully and
9 then determine whether you will accept or reject the
10 testimony of the witness, either in whole or in part.

11 Now, jurors, for example, a number of the
12 People's witnesses in this case will be police officers.
13 They will take the same oath to tell the truth as any
14 other witness that will come into this courtroom.

15 Now, the fact that a witness is a police
16 officer or wears a police officer's uniform does not
17 make him or her any more or any less credible by the
18 fact that he or she is a police officer.

19 Now, jurors, is there any one of you who have
20 any feelings about the police which would lead you to
21 give a police officer's testimony any greater or any
22 less weight than you would any other witness in this
23 case?

24 If you feel that way, I would ask you that
25 raise your hand so that we can explore that area

1 together.

2 (HAND RAISED)

3 THE COURT: I do see a hand.

4 (The following occurred at sidebar out of the
5 hearing of the panel of prospective jurors:)

6 (At this time, a prospective juror approached
7 at sidebar)

8 THE COURT: Good afternoon.

9 Your name, sir?

10 PROSPECTIVE JUROR: Mustapha Rahiim.

11 THE COURT: Mr. Rahiim, you indicated you have
12 feelings about the police that would give you -- that
13 would lead you to give their testimony greater or less
14 weight than you would any other witness in the case?

15 PROSPECTIVE JUROR: Correct.

16 THE COURT: Why?

17 PROSPECTIVE JUROR: In my own incidents with
18 the police, I've had different occasions where I've been
19 charged with having drugs or weapons on me for no reason
20 at all. It happened over the last twelve years of my
21 life. I have a strong distress for the police officers
22 at this point.

23 THE COURT: Let me ask you this, Mr. Rahiim:
24 What kind of work do you do?

25 PROSPECTIVE JUROR: I'm a chef.

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1 THE COURT: A chef. You would agree with me
2 there are some chefs who cut corners?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Some chefs who do it by the book?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And some chefs who are just
7 fantastic.

8 Certainly I know there are a number of police
9 officers in this city. At last count, thirty thousand.
10 I don't know.

11 Would you agree with me, and I don't know
12 whether you would, that there are some police officers
13 who may be great, some are good, some doing their job,
14 and some are bad?

15 PROSPECTIVE JUROR: I agree.

16 THE COURT: Okay.

17 What I'm asking is rather than paint the
18 entire Police Department with the same brush, whether
19 you could listen to the officers' testimony as they come
20 before you and then decide: You know, what? Their
21 testimony doesn't ring true; I don't believe it. It
22 rings true; I do believe it. Or something in between.

23 PROSPECTIVE JUROR: I would have a hard time.
24 Because, like my father and myself, when he grew up
25 there were certain situations that passed on to me.

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1 THE COURT: Well, I have to ask the tough
2 questions.

3 Any questions?

4 MR. SIMONS: No.

5 MR. HALE: No.

6 THE COURT: I can't excuse you from the jury
7 service, Mr. Rahim. I can only send you downstairs to
8 the second floor.

9 You can go down there now.

10 Thank you for your honesty.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar)

14 THE COURT: Good afternoon.

15 Your name?

16 PROSPECTIVE JUROR: Avellanet Gangeri.

17 It's not about this question, the one before.

18 You said if we felt that because he was
19 brought in you might already think he's guilty, I kind
20 of felt like that. But I didn't raise my hand. I don't
21 want to be unfair to him if I have that feeling already.

22 THE COURT: That's correct. Because if you're
23 telling me that you made up your mind without hearing
24 any of the evidence, then --

25 PROSPECTIVE JUROR: Kind of. Like, well, he

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1 was here because -- I don't want to do that to him.

2 THE COURT: All right.

3 Any questions?

4 MR. SIMONS: No questions.

5 MR. HALE: No.

6 THE COURT: I appreciate your honesty.

7 I can't excuse you from jury duty. You have
8 to go downstairs to the second floor.

9 PROSPECTIVE JUROR: That's okay.

10 Thank you.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar)

14 THE COURT: Good afternoon.

15 Your name, please?

16 PROSPECTIVE JUROR: Stacy Rink.

17 THE COURT: Miss Rink, is there anything about
18 a police officer's testimony that would lead you to give
19 greater or less weight than you would any other witness?

20 PROSPECTIVE JUROR: Yes. I went to Fordham
21 Law, I'm not admitted to practice, but I work for a firm
22 at 26 Court Street that handles police misconduct cases
23 and criminal defense, and I had some bad experiences
24 with some of our police officers who weren't necessarily
25 truthful on the stand.

1 I wanted to talk to you about it, I guess,
2 because I'm not sure one way or the other how I feel
3 about it. I've definitely not had the most positive
4 experiences in a courtroom with police officers.

5 THE COURT: Let me tell you this, as I said to
6 the other gentleman. Certainly you have attorneys who
7 do a phenomenal job, some attorneys who are good, and
8 some attorneys who are not so good. What I'm asking,
9 rather than paint the police with a broad brush, whether
10 you can listen to their testimony and decide whether you
11 believe it or don't believe it?

12 My question to you would be this: If you saw
13 an officer who reminded you or looked like in stature or
14 posture, or someone else, some of the others you dealt
15 with, whether you would stop thinking about the evidence
16 in this case --

17 PROSPECTIVE JUROR: That's what I'm worried
18 about it.

19 THE COURT: -- and say that looks like kind of
20 the same officer who came before us?

21 PROSPECTIVE JUROR: That's what I'm worried
22 about. If this was a small case, I would feel like
23 maybe I wouldn't. But I don't know, this is big deal.
24 I don't know if I'm the right person to be here. I'm
25 not trying to get out of it.

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1 THE COURT: Any questions?

2 MR. SIMONS: No.

3 MR. HALE: No.

4 THE COURT: Okay.

5 I can't excuse you from jury duty. You have
6 to go downstairs to the second floor.

7 Actually, you can go downstairs now.

8 (PROSPECTIVE JUROR EXCUSED)

9 (The following occurred in open court in the
10 presence of the panel of prospective jurors:)

11 THE COURT: At the end of this case, jurors, I
12 will explain to you all of the law that will be
13 applicable in this particular case. Jurors, you must
14 accept the law from me without hesitation and without
15 reservation, even if you disagree with the law or even
16 if you believe that the law should be something other
17 than what it actually is.

18 Now, jurors, can you accept the law from me
19 without hesitation and without reservation?

20 Can everyone do that?

21 (AFFIRMATIVE RESPONSE FROM JURORS)

22 THE COURT: Is there anyone because of
23 religious, moral or other reasons feel they would be
24 unable to do that?

25 I would ask that you raise your hand so that

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1 we can explore that area together.

2 (NO HAND RAISED)

3 THE COURT: I don't see any hands.

4 Now, jurors, what's going to happen at this
5 point, names will be called to have a seat in the jury
6 box. I will be asking you questions from a
7 questionnaire, and certainly, after I've had an
8 opportunity to ask you questions, I will then give the
9 assistant district attorney, Mr. Hale, an opportunity to
10 ask you questions.

11 Thereafter, if defense counsel, Mr. Simons,
12 chooses, he may also ask you questions. But, again,
13 there is no obligation or burden to do anything
14 whatsoever, so certainly Mr. Simons need not ask you any
15 questions.

16 Remember, there are no right or wrong answers,
17 only truthful answers.

18 THE CLERK: Seat number one, Gwendolyn Abdul
19 Munim.

20 That's A-B-D-U-L M-U-N-I-M.

21 Seat number one.

22 Seat number two, Shawn Hunt.

23 H-U-N-T. The first name is S-H-A-W-N.

24 Seat number three, Kasim Lachmansingh.

25 That's K-A-S-I-M; last name

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1 L-A-C-H-M-A-N-S-I-N-G-H.

2 Seat number three.

3 Seat number four, Eleanor Ruocco.

4 Last name R-U-O-C-C-O.

5 Seat number five, Stephen Ment.

6 Last name M-E-N-T; first name S-T-E-P-H-E-N.

7 Seat number six, Simon John Koike.

8 Simon, S-I-M-O-N; Koike, K-O-I-K-E.

9 Seat number seven, Winifred Lawrence.

10 Winnifred, W-I-N-N-I-F-R-E-D; Lawrence,

11 L-A-W-R-E-N-C-E.

12 Seat number eight, Carmen Pagan.

13 Carmen, C-A-R-M-E-N; Pagan, P-A-G-A-N.

14 Seat number nine, Milagros Nunez.

15 That's spelled M-I-L-A-G-R-O-S; Nunez,

16 N-U-N-E-Z.

17 Seat number ten, Rongxian Li.

18 Rongxian, R-O-N-G-X-I-A-N; Li, L-I.

19 Seat number eleven, Albelto Diaz Valdez.

20 Albelto, A-L-B-E-L-T-O; Diaz, D-I-A-Z; Valdez,

21 V-A-L-D-E-Z.

22 Seat number twelve, Jennifer Jordan.

23 J-E-N-N-I-F-E-R; J-O-R-D-A-N.

24 Seat number thirteen, Patricia Chardavoyne.

25 Patricia, P-A-T-R-I-C-I-A; Chardavoyne,

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1 C-H-A-R-D-A-V-O-Y-N-E.

2 Seat number fourteen, Pablo Santandermorales.

3 Pablo, P-A-B-L-O; Santandermorales,

4 S-A-N-T-A-N-D-E-R-M-O-R-A-L-E-S.

5 Seat number fifteen, Pauline Short.

6 Pauline, P-A-U-L-I-N-E; Short, S-H-O-R-T.

7 Seat number sixteen, Naeem Chaudry.

8 Naeem, N-A-E-E-M; Chaudry, C-H-A-U-D-R-Y.

9 Seat number seventeen, Lynnette Jones.

10 L-Y-N-N-E-T-T-E; Jones, J-O-N-E-S.

11 Seat number eighteen, Tracey Jackson,

12 T-R-A-C-E-Y; Jackson, J-A-C-K-S-O-N.

13 THE COURT: I'm going to ask the people in the
14 audience to please pay attention to the questions that I
15 will be asking and certainly the attorneys will be
16 asking of you. Because, when it becomes your turn to
17 have a seat in the jury box, we will be asking you the
18 same questions as well. It will make the process go
19 just a little bit more smoothly if you're familiar with
20 it.

21 Jurors, I will say to you, and repeat
22 constantly, there are no right or wrong answers to any
23 of my questions or any of the attorneys' questions.
24 Because, again, we are looking for jurors who will be
25 fair and impartial, and give both sides a fair trial,

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1 which they're entitled to receive.

2 Also, jurors, if I mispronounce your name,
3 please correct me. Your name is important to us, and we
4 may not say it as eloquently as you will say it, but
5 certainly we will try.

6 Miss Abdul Munim, starting with question
7 number one and continuing straight down with your
8 answers on the questionnaire.

9 You don't have to read us the question, just
10 give us the number and the answer to the question,
11 please.

12 PROSPECTIVE JUROR: Gwendolyn Abdul Munim.

13 THE COURT: You have to keep your voice up,
14 Miss Munim. I'm looking right at you, and I cannot hear
15 your answer.

16 PROSPECTIVE JUROR: Gwendolyn Abdul Minim.

17 Age 60.

18 Place of birth, U.S.

19 I live in Midwood.

20 My occupation is public health.

21 I have a Master's degree.

22 I'm married.

23 I do health education in a hospital.

24 The answer to number nine is no.

25 I have no vision or hearing problems.

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1 My daughter is in law school, in answer to
2 number eleven.

3 My son is in the Police Academy in Arlington,
4 Virginia.

5 The answer to number thirteen is yes.

6 THE COURT: Can you tell us about that.

7 PROSPECTIVE JUROR: My brother-in-law was
8 murdered in a robbery.

9 THE COURT: How long ago was that?

10 PROSPECTIVE JUROR: It would be ten years.

11 THE COURT: Did that happen in Brooklyn or
12 somewhere else?

13 PROSPECTIVE JUROR: In Manhattan.

14 THE COURT: Was anyone of ever arrested as a
15 result of that incident?

16 PROSPECTIVE JUROR: I don't believe so.

17 THE COURT: Certainly, it has to be a
18 traumatic event that happened to your brother-in-law.
19 Is there anything about that experience that certainly
20 might affect your ability to sit on this case and judge
21 the evidence fairly in this particular case?

22 PROSPECTIVE JUROR: Not at all.

23 THE COURT: Okay.

24 Question number fourteen?

25 PROSPECTIVE JUROR: Yes.

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1 THE COURT: Can you tell us about that.

2 PROSPECTIVE JUROR: It was a crime that
3 occurred about thirty years ago.

4 THE COURT: What was the nature of the crime?

5 PROSPECTIVE JUROR: Endangerment of the
6 welfare of a child.

7 THE COURT: Is there anything about that
8 experience that might affect your ability, either the
9 way you were treated by the Police Department or whoever
10 was treated, yourself or a relative or a friend was
11 treated by the Police Department or the District
12 Attorney's Office that might affect your ability to sit
13 on this case and judge the evidence fairly in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Okay.

16 You mentioned that you were born in the U.S.
17 Brooklyn? Queens? Vermont? Virginia?

18 PROSPECTIVE JUROR: New York City.

19 THE COURT: Okay. I didn't hear you.

20 Thank you.

21 Mr. Hunt?

22 PROSPECTIVE JUROR: My name is Shawn Hunt.

23 My age is 32.

24 I was born in Coney Island, Brooklyn.

25 I live in Crown Heights.

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1 I'm an equity derivatives trader for a hedge
2 fund.

3 I have my Master's degree.

4 Single.

5 No kids.

6 Number nine is no.

7 Number ten is no.

8 Number eleven is no.

9 Number twelve is yes.

10 THE COURT: Can you tell us about that yes
11 answer, Mr. Hunt.

12 PROSPECTIVE JUROR: A couple of guys I went to
13 school with are in the Police Department down in
14 Georgia.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR: Thirteen is no.

17 Fourteen is yes. My brother was arrested.
18 He's military.

19 THE COURT: How long ago was that?

20 PROSPECTIVE JUROR: That was about eight years
21 ago.

22 THE COURT: Did that happen in Brooklyn or
23 somewhere else?

24 PROSPECTIVE JUROR: It was in Oklahoma.

25 THE COURT: Anything about the way that he was

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1 treated there by the police or the District Attorney's
2 Office that might affect your ability to sit on this
3 case and judge the evidence fairly in this case,
4 Mr. Hunt?

5 PROSPECTIVE JUROR: No, ma'am.

6 THE COURT: Thank you.

7 Mr. Lachmansingh?

8 PROSPECTIVE JUROR: My name is Kasim
9 Lachmansingh.

10 Age 20.

11 I was born in Mount Sinai.

12 I live in Coney Island.

13 I'm unemployed.

14 Number six, G.E.D..

15 Seven, I'm single.

16 Eight, no.

17 Nine, no.

18 Ten, no.

19 Eleven, no.

20 Twelve, my uncle, he's a police officer, and
21 he's also in the Army. He's serving in Iraq right now.

22 Thirteen, no.

23 Fourteen, no.

24 THE COURT: Okay. You mentioned that you're
25 unemployed now. What kind of work did you do before you

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1 became unemployed?

2 PROSPECTIVE JUROR: I was working for UPS for
3 two years.

4 THE COURT: Miss Ruocco?

5 PROSPECTIVE JUROR: My name is Eleanor Ruocco.
6 64.

7 Brooklyn, Gravesend.

8 My occupation, I'm retired now.

9 High school.

10 I'm married.

11 I have two children, or had two children.

12 THE COURT: The occupation of your husband?

13 PROSPECTIVE JUROR: He works for the M.T.A.

14 No.

15 Number ten is no.

16 Eleven is no.

17 Twelve, my cousin is a police officer.

18 Thirteen is yes.

19 THE COURT: Can you tell us about your yes
20 answer, Miss Ruocco.

21 PROSPECTIVE JUROR: My daughter-in-law's
22 brother was murdered.

23 THE COURT: How long ago was that?

24 PROSPECTIVE JUROR: I would say about thirteen
25 years.

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1 THE COURT: Did that happen in Brooklyn or
2 somewhere else?

3 PROSPECTIVE JUROR: We don't know.

4 THE COURT: Is there anything about that
5 experience with your daughter-in-law's brother --

6 PROSPECTIVE JUROR: It was upsetting because
7 they never knew why or where or how or who.

8 THE COURT: Let me ask you this. With that
9 experience, would that affect your ability to sit on
10 this particular case and judge the evidence?

11 PROSPECTIVE JUROR: I think so, because I also
12 lost a son.

13 THE COURT: Okay.

14 Again, there are no right or wrong answers,
15 only truthful answers.

16 I thank you for your forthcomingness on that
17 question.

18 Question number fourteen?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Can you tell us about that.

21 PROSPECTIVE JUROR: My brother was convicted
22 of a crime, forgery, and served jail time.

23 THE COURT: Was that in Brooklyn or somewhere
24 else?

25 PROSPECTIVE JUROR: In Brooklyn.

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1 THE COURT: Anything about his experience,
2 either the way he was treated by the police or the
3 District Attorney's Office, that might affect you?

4 PROSPECTIVE JUROR: It's hard to say, because
5 it was a drug problem. It was years ago. It was very
6 bad. They didn't have what they have today.

7 THE COURT: Thank you.

8 Mr. Ment?

9 PROSPECTIVE JUROR: One, Stephen Ment.

10 Two, 41.

11 Three, Brooklyn.

12 Four, Mill Basin.

13 Five, sales.

14 Six, some college.

15 Seven, married; no children.

16 Eight, my wife is a teacher.

17 Nine, I served on a civil jury five years ago.

18 It was settled, so there was no deliberation.

19 Ten, no.

20 Eleven, no.

21 Twelve, no.

22 Thirteen, a couple of muggings, and a car
23 theft in the 70s. Nothing serious.

24 THE COURT: Anything about any of those
25 experiences, Mr. Ment, that might prevent you from

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1 sitting on this case and judging the evidence fairly in
2 this case?

3 PROSPECTIVE JUROR: No.

4 Fourteen, no.

5 THE COURT: Thank you.

6 Mr. Koike?

7 PROSPECTIVE JUROR: My name is Simon Koike.

8 I'm 40.

9 Born in Los Angeles, California.

10 I live in Fort Greene.

11 I'm a lawyer.

12 I went to law school.

13 I'm married. I have two children, ages one
14 and four.

15 My wife is a teacher.

16 I've never served on a jury.

17 I have no vision or hearing problems.

18 I know people who are lawyers.

19 Twelve is no.

20 Thirteen is no.

21 Fourteen is no.

22 THE COURT: What kind of law do you practice?

23 PROSPECTIVE JUROR: Labor law.

24 THE COURT: Thank you.

25 Miss Lawrence?

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1 PROSPECTIVE JUROR: My name is Winnifred
2 Lawrence.

3 My age is 64.

4 By birthplace is Jamaica.

5 I live in Canarsie.

6 My occupation is housekeeper.

7 I finished school.

8 Widowed.

9 Four children--ages are, 45, 44, 41,
10 and 32.

11 THE COURT: What do they do for a living,
12 Miss Lawrence?

13 PROSPECTIVE JUROR: One is a lawyer, one is a
14 paralegal, the other work in a lawyer's office as a
15 receptionist, and my eldest is in electronics.

16 I have a vision problem in my left eye, number
17 eleven.

18 THE COURT: Let me ask you this,
19 Miss Lawrence. Do the glasses that you wear correct the
20 vision problem that you have?

21 PROSPECTIVE JUROR: I was told by my doctor
22 that I have a cataracts that need to be removed from my
23 left eye.

24 THE COURT: Would that affect your ability to
25 see if something was placed on the board? Would you be

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1 able to see it?

2 PROSPECTIVE JUROR: No, I don't think so.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR: Number twelve, no.

5 Number thirteen, no.

6 THE COURT: Number thirteen is whether you or
7 any member of your family or close friend have ever been
8 the victim of a crime. Did something happen to you?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Number fourteen?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Thank you.

13 You also mentioned that your daughter -- that
14 one of your children happens to be an attorney. What
15 kind of law do they practice?

16 PROSPECTIVE JUROR: Corporate law.

17 THE COURT: Miss Pagan?

18 PROSPECTIVE JUROR: My name is Carmen Pagan.

19 My age is 58.

20 My place of birth is Puerto Rico.

21 I live in Flatbush.

22 I'm not working right now.

23 I went to the 11th grade.

24 I am single.

25 I have three daughter's, age 28, 25, and 21.

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1 THE COURT: What do they do for a living, if
2 they work?

3 PROSPECTIVE JUROR: One of them is a
4 pharmacist technician, another one is going to school
5 for paramedic, and another one works at Children's
6 Place.

7 The answer to number nine is no.

8 No to ten.

9 No to eleven.

10 No to twelve.

11 No to thirteen.

12 Fourteen, no.

13 THE COURT: You mentioned that you're
14 unemployed now. What kind of work did you do before you
15 became unemployed?

16 PROSPECTIVE JUROR: I was a medical assistant,
17 but I got injured and I can't stand too long or sit for
18 too long.

19 THE COURT: Let me ask you this. The longest
20 you can sit without it affecting your condition would be
21 what, an hour or two hours?

22 PROSPECTIVE JUROR: Like an hour,
23 hour-and-a-half.

24 THE COURT: Okay. Thank you.

25 Miss Nunez?

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1 PROSPECTIVE JUROR: My name is Milagros Nunez.
2 I'm 31 years old.
3 I was born in Brooklyn, New York.
4 I live Williamsburg, Brooklyn.
5 I am a sales assistant.
6 Number six is high school.
7 Seven, I am single with three children, ages
8 13, 10 and four months.
9 Number eight is no.
10 Number nine is no.
11 Number ten, no.
12 Number eleven, no.
13 Twelve, no.
14 Thirteen, no.
15 Fourteen, no.
16 THE COURT: Thank you.
17 Mr. Li?
18 PROSPECTIVE JUROR: My name is Rongxian Li.
19 I'm 54.
20 Birthplace is China.
21 I live in Coney Island.
22 Occupation is technician.
23 Number six is college.
24 I'm married.
25 I have two children, nine and eleven.

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1 My wife is a housewife.

2 Number nine is no.

3 Number ten is no.

4 Number eleven is no.

5 Number twelve, no.

6 Thirteen, no.

7 Fourteen, no.

8 THE COURT: What was your occupation? I
9 didn't hear you.

10 PROSPECTIVE JUROR: Technician.

11 THE COURT: Technician.

12 Thank you.

13 Mr. Diaz Valdez?

14 PROSPECTIVE JUROR: My name is Albelto Diaz.

15 My age is 26.

16 My birthplace is Santo Domingo.

17 I live East New York.

18 My occupation is car driver.

19 THE COURT: Can you just keep your voice up.
20 You're speaking so softly, Mr. Diaz, I'm straining to
21 hear you.

22 You said you were a cab driver?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Number six?

25 PROSPECTIVE JUROR: I no go to the school.

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1 I'm married.

2 I have one children.

3 Number eight, no.

4 Number nine, no.

5 Number ten, no.

6 Number eleven, no.

7 Number twelve, no.

8 Number thirteen, no.

9 Number fourteen, no.

10 THE COURT: Okay.

11 How far did you go in school? If you went to
12 school in Santo Domingo, what grade level or standard
13 did you reach?

14 PROSPECTIVE JUROR: 11th.

15 THE COURT: Okay.

16 You mentioned that you're married. Does your
17 wife work, or what kind of work does she do?

18 PROSPECTIVE JUROR: She no work.

19 THE COURT: Okay.

20 Miss Jordan?

21 PROSPECTIVE JUROR: Jennifer Jordan.

22 50.

23 Guyana.

24 Crown Heights.

25 Teacher assistant.

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1 College.
2 Single.
3 Two kids--28 and 18.
4 Number eight is no.
5 Nine is criminal jury, as a alternate in 2003?
6 Ten, no.
7 Eleven, no.
8 Twelve, no.
9 Thirteen, yes. I was the victim of a mugging.
10 THE COURT: How long ago was that,
11 Miss Jordan?
12 PROSPECTIVE JUROR: Like eight years.
13 THE COURT: Was anyone arrested as a result of
14 that experience?
15 PROSPECTIVE JUROR: No. They just snatch the
16 bag.
17 THE COURT: Anything about that experience
18 that might affect your ability to sit on this case and
19 judge the evidence fairly?
20 PROSPECTIVE JUROR: No.
21 THE COURT: Question number fourteen?
22 PROSPECTIVE JUROR: Yes, my brother was
23 arrested. Marijuana.
24 THE COURT: How long ago was that?
25 PROSPECTIVE JUROR: 2003.

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1 THE COURT: Did that happen in Brooklyn or
2 somewhere else?

3 PROSPECTIVE JUROR: In Brooklyn.

4 THE COURT: Anything about the way he was
5 treated by the Police Department or the District
6 Attorney's Office that might affect your ability to sit
7 on this case and be fair?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Thank you.

10 Miss Chardavoyne?

11 PROSPECTIVE JUROR: Yes. My name is Patricia
12 Chardavoyne.

13 I'm 48.

14 I was born in Kings County.

15 I live in Bay Ridge, Brooklyn.

16 I am a timekeeper for the District Attorney's
17 Office.

18 College.

19 I'm married.

20 I have no children.

21 My husband works for the Social Security
22 Department.

23 I've served on a civil jury, four years ago.
24 It was settled before we reached a verdict.

25 No.

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1 Through work, yes.

2 Through work, yes.

3 No.

4 And no.

5 THE COURT: Is that the District Attorney's
6 Office in Brooklyn?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Okay.

9 Mr. Santandermorales?

10 PROSPECTIVE JUROR: Pablo Santandermorales.
11 31.

12 Ecuador.

13 I live in East New York.

14 My occupation is I'm a manager.

15 Married.

16 My wife is a teacher.

17 Nine is no.

18 Ten, no.

19 Eleven, no.

20 Twelve, no.

21 Thirteen, no.

22 Fourteen, no.

23 THE COURT: Okay. How far did you go in
24 school?

25 PROSPECTIVE JUROR: College.

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1 THE COURT: Thank you.

2 Miss Short?

3 PROSPECTIVE JUROR: My name is Pauline Short.

4 I'm 62.

5 Born in Providence, Rhode Island. Raised from
6 three months in Brooklyn, New York.

7 I live in Bay Ridge.

8 I'm a legal assistant.

9 Three years in college.

10 I'm separated.

11 I served on a civil jury. It was quite some
12 time ago, I can't remember how many years ago. It was a
13 car accident.

14 I have no vision or hearing problem.

15 I work in the legal department in a bank. I
16 previously worked in law firms. Yes. I know people in
17 law enforcement also.

18 Yes, people have been victims of a crime.

19 THE COURT: Can you tell me what stands out in
20 your mind?

21 PROSPECTIVE JUROR: Well, two. My first born
22 daughter was accosted on her way to school when she was
23 eight. She didn't get in the car, but he was arrested.
24 He was accosting a lot of kids, and we went to court. I
25 think he got therapy. So that's how that was settled.

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1 THE COURT: Anything about that experience,
2 because you said you mentioned two things.

3 PROSPECTIVE JUROR: It was intense as a
4 mother.

5 THE COURT: No, no. I'm saying is there
6 anything about it, although it happened awhile ago, that
7 might affect your ability to sit on this case and judge
8 the evidence fairly in this case?

9 PROSPECTIVE JUROR: No, totally different.
10 No.

11 THE COURT: Question number fourteen?

12 PROSPECTIVE JUROR: I've never been arrested,
13 about my little brother, 38 years ago, for marijuana.

14 THE COURT: Anything about his experience that
15 might affect your ability to sit on this case and judge
16 the evidence fairly in this case?

17 PROSPECTIVE JUROR: No, no.

18 THE COURT: Okay.

19 Mr. Chaudry?

20 PROSPECTIVE JUROR: My name is Naeem Chaudry.

21 38.

22 Pakistan.

23 Bensonhurst, Brooklyn.

24 Sales person, cashier.

25 No school.

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1 Married; two kids.
2 Number eight, no.
3 Nine, no.
4 Ten, no.
5 Eleven, no.
6 Twelve, no.
7 Thirteen, no.
8 Fourteen, no.
9 THE COURT: Thank you.
10 Miss Jones?
11 PROSPECTIVE JUROR: Number one, Lynnette
12 Jones.
13 Number two, 31.
14 Number three, Brooklyn, New York.
15 Number four, Brownsville, Brooklyn.
16 Number five, paraprofessional.
17 Number six, high school graduate.
18 Number seven, single.
19 Three children--ages 10, 8 and 3.
20 Number eight, no.
21 Number nine, no.
22 Number ten, no.
23 Number eleven, no.
24 Number twelve, yes. My brother is a cop.
25 Number thirteen, yes. I was shot at the age

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1 of 14.

2 THE COURT: Was anyone arrested as a result of
3 that, Miss Jones?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Anything about that experience
6 that might affect your ability to sit on this particular
7 case, based on the nature of the accusations in this
8 case?

9 PROSPECTIVE JUROR: No.

10 Number fourteen, no.

11 THE COURT: Miss Jackson?

12 PROSPECTIVE JUROR: Tracy Jackson.

13 23.

14 Brooklyn, New York.

15 Clinton Hills, Brooklyn.

16 Receptionist.

17 College student.

18 Single.

19 One kid, three years old.

20 No.

21 No.

22 No.

23 THE COURT: Can you just give us the numbers
24 to the question you're saying no to, Miss Jackson?

25 PROSPECTIVE JUROR: No to eight.

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1 No to nine.

2 No to ten.

3 Eleven, yes.

4 THE COURT: Can you tell us about that?

5 PROSPECTIVE JUROR: I work for a law firm.

6 THE COURT: What kind of law do they practice?

7 PROSPECTIVE JUROR: Employment law, criminal

8 law, immigration, bankruptcy.

9 Twelve, yes.

10 THE COURT: Can you tell us about that?

11 PROSPECTIVE JUROR: A lot of my family members
12 are C.O.'s.

13 Thirteen, my goddaughter's father was killed
14 two years ago.

15 THE COURT: Did that happen in Brooklyn or
16 somewhere else?

17 PROSPECTIVE JUROR: In Brooklyn, New York.

18 THE COURT: Was anyone arrested as a result of
19 that incident?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Anything about that experience,
22 which has to be traumatic, that might affect your
23 ability to sit on this case, Miss Jackson, and judge the
24 evidence fairly in this case?

25 PROSPECTIVE JUROR: No.

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1 THE COURT: Fourteen?

2 PROSPECTIVE JUROR: Fourteen, no.

3 THE COURT: Jurors, again, in the audience,
4 I'm going to ask you to pay attention. When it becomes
5 your turn to have a seat in the jury box, I'll be asking
6 you the same kind of questions.

7 At this time, I will give the assistant
8 district attorney, Mr. Hale, an opportunity to ask you
9 questions.

10 Again, jurors, there are no right or wrong
11 answers, only truthful answers.

12 You may proceed, Mr. Hale.

13 MR. HALE: Thank you, your Honor.

14 Good afternoon, ladies and gentlemen.

15 Again, my name is Mark Hale. I'll be asking
16 you some questions that hopefully we can get some
17 answers about whether you are the right people who would
18 be qualified to sit on this particular case.

19 I may ask questions of you individually or as
20 a group. But what I do need is to hear an audible
21 response. We don't get much information by hearing my
22 voice up here, we get information by hearing your voice.

23 So, can all of you answer up when I ask you
24 questions?

25 (AFFIRMATIVE RESPONSE FROM JURORS)

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1 MR. HALE: Very good.

2 First things first. You've all heard that the
3 allegation again Mr. Waiters and the case for which
4 you've been brought up here is murder. I know the Court
5 asked this before, but I think that everybody knows, you
6 know, murder is about as serious as it gets.

7 Is there anybody here that does not think they
8 would be able to give this case the serious attention,
9 and I mean while you're in here it's the one hundred
10 percent attention and devotion to this case, that it
11 deserves, or if there's anything that would be
12 distracting you from it? Anything in your outside life?
13 We'll listen to anything that you have.

14 Yes, ma'am? Because of what you told us
15 before?

16 PROSPECTIVE JUROR: Right. A whole lot of
17 other things, too.

18 MR. HALE: A whole lot of other things, too.
19 But, primarily, that would be what you told us before
20 about what happened in you family?

21 PROSPECTIVE JUROR: Yes.

22 MR. HALE: Okay. That's fine.

23 Sir?

24 PROSPECTIVE JUROR: I'm a money manager, and
25 there's nobody to watch the book when I'm gone. So,

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1 right now, it's a problem.

2 MR. HALE: Let me ask you this, sir. Listen,
3 everybody knows that everybody has lives outside of
4 what's going on here.

5 The whole question here, sir, is while you're
6 in here would your occupation and what's going on, would
7 it distract you to an extent that you couldn't give this
8 your full attention?

9 PROSPECTIVE JUROR: Probably.

10 MR. HALE: Probably.

11 PROSPECTIVE JUROR: I would say yes.

12 MR. HALE: You would say yes. You mean that
13 making a decision on whether this gentleman did or did
14 not commit the crime as alleged here, in this case,
15 murder, your personal concerns would distract you from
16 that?

17 PROSPECTIVE JUROR: Yeah. I would say that
18 wondering how the portfolio is doing could be on my
19 mind. It would probably stop me or hinder me from
20 giving this my full and undivided attention.

21 MR. HALE: You mean while the witnesses are
22 testifying, you would be worried about the money and you
23 would be thinking about that?

24 PROSPECTIVE JUROR: Not exactly, but --

25 MR. HALE: Well, is that the situation, sir?

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1 PROSPECTIVE JUROR: That is the situation.

2 MR. HALE: And you would not be able to put
3 that aside?

4 PROSPECTIVE JUROR: I would find it difficult.

5 MR. HALE: All right.

6 Anybody else have that particular problem,
7 that they would be worried about their outside lives or
8 outside interests and not able to give this case its
9 full attention?

10 (NO HAND RAISED)

11 MR. HALE: Okay.

12 Now, one of the things about this case,
13 because it is murder--again, the Court talked about this
14 a little bit--the person that died in this case was a
15 little girl four years old. Three other people were
16 also shot in this case.

17 It would be unnatural if you didn't feel at
18 least some sympathy for the person that died, for their
19 survivors. I think you would all agree with that,
20 right?

21 (AFFIRMATIVE RESPONSE FROM JURORS)

22 MR. HALE: By the same token, this gentleman
23 over here, Mr. Waiters, I mean, guilty or not guilty,
24 and we don't know what that is because you haven't heard
25 the evidence, but I'm sure none of us would want to be

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1 trading places with him or have somebody near and dear
2 to us be in the position that he is in.

3 MR. SIMONS: Objection.

4 THE COURT: I would sustain the objection.

5 Jurors, let me say this, that you are to
6 decide this case based on the evidence or the lack of
7 evidence, and sympathy cannot play any part. Although
8 you may have emotions, you cannot allow your emotions to
9 shape or influence how you evaluate the evidence in this
10 case.

11 MR. HALE: That was my question, your Honor.

12 And it doesn't just go to talking about the
13 victims of the crime, it also goes to the defendant.

14 Does anybody think that their decision would
15 be shaped or formed by any sort of sympathy or from the
16 appearance of any person here in the courtroom, whether
17 it's the defendant or anybody else, that you'd be
18 thinking about that as opposed to just concentrating on
19 the evidence here?

20 Anybody think that at all?

21 Again, it's a tough question. The judge said
22 it once, and I reiterate, that nobody knows you better
23 than yourselves. I think that we all know that there
24 are people who make decisions in their life, you know,
25 some of them based upon reason, but a lot of times there

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1 are some people that make decisions that are ruled by
2 their emotions. If you're that sort of person, that's
3 the sort of thing we have to know right now.

4 Can all of you assure us that whatever you're
5 feeling in terms of your heart, in terms of sympathy,
6 that when it comes time to make a decision in this case,
7 that you would be able to put that aside and decide this
8 case with your head and not with your heart?

9 Will you be able to do that, ma'am?

10 PROSPECTIVE JUROR: Yes.

11 MR. HALE: Any problem over there?

12 PROSPECTIVE JUROR: Yeah. I don't think I
13 would be able to do it.

14 MR. HALE: Just explain that a little bit.
15 What do you think?

16 PROSPECTIVE JUROR: I don't know. I'm always
17 sympathizing with somebody. I know my feelings would
18 get the best of me. I don't think I would be able to
19 make a decision on just evidence itself.

20 MR. HALE: On just evidence itself?

21 PROSPECTIVE JUROR: No.

22 MR. HALE: What does that mean, that just on
23 somebody saying so, you don't think you would be able to
24 make a decision?

25 PROSPECTIVE JUROR: No.

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1 MR. HALE: Okay.

2 This is a question about the case. The judge
3 talked about this. You know, juries are called upon to
4 make decisions in here based upon evidence. Most of
5 what you're going to get in evidence is going to be
6 testimony coming from the witness stand here. You're
7 going to see some other things and some exhibits, other
8 things of that nature, but it's never going to be any
9 substitute for you being right there. In other words,
10 this is not a case of your making your decision on
11 seeing is believing. You're going to be taking stuff
12 from other sources.

13 Now, some people--and I'm getting this from
14 you--they can't make a decision that way. They got to
15 say well, if you're saying beyond a reasonable doubt,
16 well, unless I'm seeing it, I can never get there.

17 Is there anybody, besides this young lady, who
18 feels that they would have a problem deciding this case
19 and judging it upon saying somebody else who was there,
20 we're not talking about an incident that happened
21 yesterday or the day before, almost two years ago, of
22 them recounting what happened?

23 Would anybody think that they would have any
24 problem with that whatsoever?

25 How about you, ma'am, what do you think?

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1 PROSPECTIVE JUROR: No.

2 MR. HALE: How about you, sir, do you
3 understand what I'm talking about?

4 PROSPECTIVE JUROR: No.

5 MR. HALE: Okay. For some people, people can
6 tell them about incidents that they've seen or incidents
7 they've heard, and they'll sit there and they will be
8 skeptical about it unless they've seen it themselves.

9 Are you that sort of person? Or are you the
10 sort of person that can sit there and say okay, here's
11 this person, I'm evaluating what they're like, how they
12 communicate with me, and I either believe them or I
13 don't believe them.

14 Can you do that?

15 PROSPECTIVE JUROR: No.

16 MR. HALE: Do you understand me, or can you
17 not do it?

18 PROSPECTIVE JUROR: I don't understand too
19 much.

20 MR. HALE: All right.

21 Is there anybody else that has any confusion
22 about what I'm talking about?

23 Sir, you're in law; right?

24 PROSPECTIVE JUROR: Yes, sir.

25 MR. HALE: Okay.

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1 Did you ever have an interest in this end of
2 the law at all, in criminal law or trial work, things of
3 that nature?

4 PROSPECTIVE JUROR: I do trial work.

5 MR. HALE: You do trial work. Listen, I know
6 next to nothing about labor law. I don't know what kind
7 of trial work you would do. What kind of trial work do
8 you do?

9 PROSPECTIVE JUROR: I work for the National
10 Labor Relations Board, it's a federal agency.

11 MR. HALE: Right.

12 PROSPECTIVE JUROR: We practice before
13 administrative law judges, also employed by the same
14 agency.

15 MR. HALE: Okay. That has to do with disputes
16 about labor, I assume, or contracts in labor, things in
17 that?

18 PROSPECTIVE JUROR: It's a statute. The
19 National Labor Relations Act.

20 MR. HALE: Okay.

21 Is there anything from your training, sir, or
22 your experience that you think would affect your ability
23 here to follow the law as the judge gives it to you?
24 That's a question we always ask lawyers.

25 PROSPECTIVE JUROR: No.

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1 MR. HALE: Okay.

2 You understand that you can't substitute
3 whatever your understanding of the rules of evidence or
4 criminal law is for what the judge tells you; right?

5 PROSPECTIVE JUROR: Yes.

6 MR. HALE: You would be able to do that?

7 PROSPECTIVE JUROR: Yes.

8 MR. HALE: I have a question for you, sir.

9 He's on the jury now. You're on the jury now.
10 He's a lawyer. You're not. Do you think that his
11 opinion about what goes on in the case is any better or
12 any more well-informed than yours?

13 PROSPECTIVE JUROR: No.

14 MR. HALE: I want all of you to understand
15 that I'm not picking on you. Yes, I am.

16 All of you, regardless of your training and
17 your background, you know what the extent of your
18 schooling is, what the level of your income is, what
19 sort of job you do, none of your opinions is any better
20 or any worse than anybody else's.

21 Do you all understand that?

22 (AFFIRMATIVE RESPONSE FROM JURORS)

23 MR. HALE: I want everybody to get this right
24 now. Because some people would sit there and go well,
25 you know, this guy is more experienced than me, this guy

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1 makes more money than me, or this guy has more education
2 than I do, so maybe he's right and I'm wrong.

3 Can all of you kind of resist that? Because
4 we're all asking you to the very same thing. It's the
5 sort of thing you do every day in your life. Which is
6 somebody tells you something or you look at something
7 and you decide where the truth lies.

8 All right? It's not rocket science.

9 Do you think you can do that, ma'am?

10 PROSPECTIVE JUROR: Yes.

11 MR. HALE: Do you think you would have any
12 problem with that?

13 PROSPECTIVE JUROR: No, I don't think I would
14 have any problem.

15 MR. HALE: Okay.

16 The judge also told you something else. Which
17 is that you got to make -- This isn't something you do
18 in every your every day lives, and we're asking you to
19 kind of do something that is sort of unnatural. We're
20 asking you to make a decision here without consideration
21 and without worrying or thinking about what the
22 consequences of that decision are.

23 Ma'am, let me ask you this. The judge said
24 you've got to make your decision in this case, and you
25 can't worry about whether it's guilty or not guilty,

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1 what happens afterward. In other words, after you say
2 guilty or not guilty, your decision can't be based upon
3 what you think that means. If it's guilty, you can't
4 worry about punishment. If it's not guilty, you can't
5 worry about how people feel about that.

6 Now, in our every day life, when we make
7 decisions, we think about what are the consequences.

8 Can you put that aside and just make your
9 decision just based upon what the evidence is here?

10 PROSPECTIVE JUROR: Yes.

11 MR. HALE: Can you do that?

12 PROSPECTIVE JUROR: Yes.

13 MR. HALE: And part of the evidence in this
14 case never, never will be, and should never be a
15 consideration what happens afterward.

16 Do you think you can do that?

17 PROSPECTIVE JUROR: Yes.

18 MR. HALE: Is there anybody who doesn't think
19 that they can do that? From whatever experience that
20 they may have had in their life, that they don't think
21 they would be able to do that?

22 Ma'am, you're one of the younger people up
23 here, but do you think you would be able to do that,
24 make your decision without worrying what the
25 consequences are?

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1 PROSPECTIVE JUROR: Yes.

2 MR. HALE: Now, I've been giving notice, and
3 it's probably going to occur in this case, that you may
4 hear certain evidence having to do with psychiatric sort
5 of testimony.

6 MR. SIMONS: Objection.

7 THE COURT: Let me say this, jurors. At this
8 time, I'm going to sustained the objection.

9 MR. HALE: May I approach, your Honor?

10 THE COURT: Not at this time, no.

11 Jurors, you will listen to the evidence.
12 Whatever evidence you will hear, you will evaluate it
13 and make your own determination of what you believe to
14 be the credible, believable evidence, and certainly you
15 will evaluate all of the evidence and make your
16 determination based upon all of the evidence that is
17 presented before you.

18 MR. HALE: Let me put it this way. Ladies and
19 gentlemen, do any of you have any experience with or
20 training in psychology or psychiatry or anything that
21 has to do with the mentally disabled or the mentally
22 deficient? Anybody at all?

23 (NO RESPONSE)

24 MR. HALE: This is the part where I need to
25 hear an audible response.

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1 (NEGATIVE RESPONSE FROM JURORS)

2 MR. HALE: Do any of you have any opinion from
3 anything that you might have read or anything that you
4 might have heard about about the role of psychiatry or
5 psychology as it applies to the law or as it's used in
6 courtrooms? Anybody have any opinion as to that at all?

7 (NEGATIVE RESPONSE FROM JURORS)

8 MR. HALE: Anything you might have seen in a
9 real life case or in a TV sort of case that has anything
10 to do with people accused of crime and talking about or
11 discussing mental issues having to do with psychology or
12 psychiatry? Anybody have any opinions as to that?

13 (NEGATIVE RESPONSE FROM JURORS)

14 MR. HALE: Can all of you keep an open mind as
15 to psychiatric type of evidence? Let me preface it this
16 way. There are some people -- I'll give you a range of
17 opinions. Some people think that mental health
18 professionals and psychiatry and psychology is great
19 stuff, and everybody should be in therapy. And there's
20 other people at the other end of the spectrum that say
21 oh, it's just a bunch of junk, I can't believe anything
22 any of those people say, and they call the doctors
23 shrinks. Okay?

24 Is there anybody that has such an extreme
25 opinion about that that you don't think you would be

1 able to judge it as if you would any other sort of
2 science? That is, listen to the person, listen to their
3 qualifications, listen to what they're basing their
4 opinion on, and then you decide it, whether their
5 opinion is credible or not credible or has anything to
6 do with this case.

7 Ma'am, do you think you would be able to do
8 that?

9 PROSPECTIVE JUROR: Yes.

10 MR. HALE: Again, I can't tell you whether
11 you're going to hear that sort of testimony or not. But
12 you can keep an open mind to it?

13 PROSPECTIVE JUROR: Yes.

14 MR. HALE: Can you follow the judge's
15 instructions when it comes to evaluating not only that
16 type of evidence but all types of evidence that might be
17 called expert testimony?

18 PROSPECTIVE JUROR: Yes.

19 MR. HALE: Can you do that?

20 PROSPECTIVE JUROR: Yes.

21 MR. HALE: Is there anybody here that just
22 thinks that because somebody has certain educational
23 qualifications, or they might have a title including
24 doctor, that everything that they say you automatically
25 have to believe?

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1 PROSPECTIVE JUROR: No.

2 MR. HALE: Do you think that, ma'am?

3 PROSPECTIVE JUROR: No.

4 MR. HALE: You don't think that, sir; right?

5 PROSPECTIVE JUROR: No.

6 MR. HALE: Okay.

7 Can you keep an open mind that those people,
8 just like everybody else in every other profession--we
9 talked a little bit about this before when the Court was
10 talking about police officers--that, you know, you don't
11 prejudge--that's where that word prejudice comes
12 from--you don't prejudge people about their own
13 profession or their educational background, you listen
14 to what they have to say and then you decide whether you
15 believe it or not?

16 Any problem with that at all, ma'am?

17 PROSPECTIVE JUROR: No.

18 MR. HALE: Okay.

19 Talking about the police. I don't think this
20 will be a case in which there will be a tremendous
21 dependence upon police testimony. But is there anybody
22 here that thinks that because somebody is a police
23 officer they wouldn't be able to judge their testimony
24 in the same as they would anybody else in any other
25 profession?

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1 Ma'am, you got any problem with that?

2 PROSPECTIVE JUROR: No.

3 MR. HALE: Sir, how about you?

4 PROSPECTIVE JUROR: No.

5 MR. HALE: You're okay with police testimony?

6 You don't think that they tell the truth all the time;
7 you don't think that they lie all the time? You have to
8 hear and then decide; right?

9 PROSPECTIVE JUROR: Sometimes I don't think
10 that they all the time right.

11 MR. HALE: Well, no. Nobody is all the time
12 right, are they?

13 PROSPECTIVE JUROR: No.

14 MR. HALE: But you're not going to know
15 whether they're all the time right or all the time
16 wrong, or some of the time right or some of the time
17 wrong until you hear what they say; right?

18 PROSPECTIVE JUROR: Yes.

19 MR. HALE: And just because they're police
20 officers doesn't mean that they're some of time wrong,
21 some the time right, or all the time wrong or all the
22 time right; right?

23 I confused myself with that question.

24 There are some things in terms of laughs when
25 I'm getting to know you here and when we're all getting

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1 to know you, but I think all of you understand that this
2 is a very, very serious matter, and I'm not making light
3 of it at all.

4 What is important, though, ladies and
5 gentlemen, is that all of you exercise your individual
6 judgments to the best of your ability on what you hear
7 in here, that you don't bring in anything from the
8 outside.

9 For instance: How many of you watch any of
10 the cops-and-robbers shows on TV? I raised my hand
11 because I do. Okay?

12 Which one do you like?

13 PROSPECTIVE JUROR: Law and Order.

14 MR. HALE: Oh, God. Law and Order.

15 How about you, ma'am?

16 PROSPECTIVE JUROR: Law and Order and Cops.

17 MR. HALE: C.S.I. fans here, anybody?

18 PROSPECTIVE JUROR: Yes.

19 MR. HALE: Okay. We have some of that over
20 here.

21 Listen. We get I can almost say bombarded.
22 If it's not a reality show, it's one of these cop shows.
23 Okay? We hear a lot about that. We certainly hear not
24 just about fictional stuff, but we hear about a lot of
25 real life stuff, because we have more news outlets now

1 and we get more real life information like this.
2 Listen. It would be almost be unnatural if you weren't
3 getting a certain amount of information from those
4 shows, whether it's real life or whether it's fiction.

5 Can all of you assure me that no matter how
6 entertaining those shows are, no matter how interesting
7 they are, or whether you love them or you detest them,
8 that again you don't bring anything from those shows in
9 here, you don't bring anything from the newspaper in
10 here, you don't bring anything from the radio in here,
11 you don't bring anything from your buddy at work in
12 here, that you make your decisions based upon just what
13 you hear in here.

14 Can you do that, sir?

15 PROSPECTIVE JUROR: Not a problem for me.

16 MR. HALE: Ma'am, how about you?

17 PROSPECTIVE JUROR: Not a problem.

18 MR. HALE: Here's another thing. Your
19 decision, again, has to be yours, and because of that,
20 while this case is going on, you can't talk to each
21 other about the case, not until the judge tells you you
22 can deliberate on the case.

23 Worse than that, when you go home at night,
24 you can't talk to anybody there about the case either.
25 You know why? Because we want your opinion about the

1 case, you're opinion about the witnesses. Not what your
2 brother-in-law thinks, your next door neighbor thinks,
3 or your mailman thinks. That's why you can't discuss
4 the case.

5 Again, that's a terribly unnatural thing.
6 Here's the worse thing: What kind of case are you on?
7 Oh, I'm on murder case. Now, you're not intending to
8 talk about the case whatsoever because you're following
9 the judge's instruction, but the natural inclination is
10 for people to ask you about the case.

11 Well, what happened? Well, he testified.
12 Well, what do you think? You have to be able to sit
13 there and say: You know something, the judge told me
14 not to talk about it. And there's good reason why.
15 Just what I explained to you.

16 Do you think all of you would be able to do
17 that?

18 (AFFIRMATIVE RESPONSE FROM JURORS)

19 MR. HALE: Okay. It's very, very important.

20 Now here's the part where you are going to
21 talk. Because at end of this case you're going to have
22 to talk to each other.

23 Now, just take a look at each other. Just
24 think about it for a minute. Now, here is something
25 scary. But for the fact that all of you answered your

1 jury notice at the same time, most of you would never
2 have any occasion to share anything with anybody else
3 who sitting here with you. Think about that.

4 You're all different, and you're all from
5 different backgrounds. You all have different likes and
6 dislikes. So, you probably wouldn't talk to each other
7 except for this. And we're asking you to talk to each
8 other and come to a decision, a unanimous decision. I
9 mean, everybody has to agree.

10 Does anybody think because of their own
11 personality that they would not be able to engage in
12 that give-and-take?

13 That means not just listening to your fellow
14 jurors, that means talking to your fellow jurors. That
15 means not just talking about passing the time of day, it
16 means talking about opinions, about very important
17 things. It's not just talking about your opinions about
18 very, very important things, it's talking about opinions
19 about something that all of you have seen at the same
20 time.

21 Do you think you would have a problem with
22 that, sir?

23 PROSPECTIVE JUROR: No.

24 MR. HALE: I mean, it goes young and old and
25 everything else. Just like I talked about with this

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1 gentleman being a lawyer. You can look at this young
2 lady right next to her and you might think: Well, what
3 does she know? She's young, she hasn't been around.
4 I've got more experience.

5 Do you think you would be able to listen to
6 what she has to say?

7 PROSPECTIVE JUROR: Yes.

8 MR. HALE: How about this, you know, long in
9 the tooth guy over here. Would you say, well, he's got
10 more life experience than me and in different areas, he
11 must know what he's talking about and I don't?

12 PROSPECTIVE JUROR: No.

13 MR. HALE: Any problems sharing and
14 interchanging ideas with him?

15 PROSPECTIVE JUROR: No.

16 MR. HALE: You get my point, don't you, ladies
17 and gentlemen?

18 (AFFIRMATIVE RESPONSE FROM JURORS)

19 THE COURT: You have another minute, Counsel.

20 MR. HALE: Thank you, your Honor.

21 Does anybody think you'd have any problem with
22 that whatsoever?

23 (NEGATIVE RESPONSE FROM JURORS)

24 MR. HALE: The last question. Because I
25 couldn't get to all of the questions and because I

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1 couldn't get to all of you individually, is there
2 anything that any of you can think about, over and above
3 what we've talked about, what I've asked you about, that
4 thinks that any of you, any of you, could be less than a
5 fair and impartial juror and judge this case on the
6 evidence, and only the evidence, and the law as supplied
7 by the Court?

8 Anybody have any problem with that whatsoever?

9 (NEGATIVE RESPONSE FROM JURORS)

10 MR. HALE: Thank you for your time, ladies and
11 gentlemen.

12 THE COURT: Certainly, jurors, I've indicated
13 that the defense has no obligation or burden to do
14 anything whatsoever. So, certainly defense counsel need
15 not inquire.

16 Do you wish to inquire, Mr. Simons?

17 MR. SIMONS: Yes, your Honor.

18 Good afternoon, ladies and gentlemen.

19 Let me apologize to you because I know I'm
20 going to get your name wrong. I wrote it down the best
21 that I could, but I'm sorry.

22 I will be asking you some questions, but I may
23 not get to everyone. I also apologize.

24 If you want to ask me any question, please
25 feel free to ask me anything. I'll try to answer it or

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1 the Court will answer it. Because if you are selected,
2 you really won't be able to say anything until the end
3 of the case, when you actually make your decision.

4 Let me start with Mr. Koike.

5 Now, you mentioned that you actually do trial
6 work.

7 PROSPECTIVE JUROR: Yes, sir.

8 MR. SIMONS: You prepare witnesses, you go
9 before administrative judges, I believe you said?

10 PROSPECTIVE JUROR: Yes.

11 MR. SIMONS: Now, if you're in the jury room
12 and the judge tells you something which you say: Well,
13 wait a minute. That's not what I know, that's what I
14 don't believe in, that's not the law as I know it.
15 Would you be able to follow it anyway?

16 PROSPECTIVE JUROR: Yes.

17 MR. SIMONS: No problem?

18 PROSPECTIVE JUROR: No.

19 MR. SIMONS: Do you feel that maybe you will
20 be evaluating the witnesses and maybe myself--you may
21 see me, I may not do anything--and say: Oh, he should
22 be asking questions. He should be doing this. Or
23 Mr. Hale.

24 Do you think that would be a problem with you
25 since you are a trial attorney yourself?

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1 PROSPECTIVE JUROR: I don't think it would be
2 a problem, no.

3 MR. SIMONS: You don't think?

4 PROSPECTIVE JUROR: Well, I might have that
5 thought, but it wouldn't be a problem with me making a
6 decision.

7 MR. SIMONS: I'm glad you said "I don't
8 think". Another judge, and this is his statement, he
9 says: Imagine you're in an airplane and the weather is
10 bad, the pilot is about to land the plane, and he says,
11 "Ladies and gentlemen, I think I can land the plane."
12 You'd get a little nervous; right?

13 So, we just need your assurance that no matter
14 what training you had in cross-examining or whatever you
15 do, you would still be able to be fair and objective in
16 this case.

17 PROSPECTIVE JUROR: Yes.

18 MR. SIMONS: Okay. Miss Nunez?

19 PROSPECTIVE JUROR: Yes.

20 MR. SIMONS: Now, the judge did tell you
21 something about this case, that this is a murder case.
22 I'll just ask you, have you heard anything so far that
23 would help you decide this case at this moment?

24 PROSPECTIVE JUROR: No.

25 MR. SIMONS: Right, nothing.

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1 Does everyone agree with that?

2 (AFFIRMATIVE RESPONSE FROM JURORS)

3 MR. SIMONS: Thank you. That was good.

4 Now, I'll ask you, Miss Nunez, throughout the
5 case, you know, it's a murder case, you're going to hear
6 some medical testimony, a medical examiner, and it's
7 going to get very graphic. But it's something has to
8 get done. You know, the cause of death. You already
9 her there's a gun was involved.

10 Knowing what's coming, because you're going to
11 hear that, and I'm asking you but this is for everyone,
12 do you feel you won't be able to handle it? Or, it may
13 get to the point, you know, once you're on the jury, you
14 say, "This is just too much. I don't want to hear any
15 more about guns and the injuries or anything like that."

16 Do you think that would be a problem?

17 PROSPECTIVE JUROR: No, no problem.

18 MR. SIMONS: As I said, I ask you, but this is
19 for everybody. Does everyone feel -- You know it's a
20 murder case. You know someone was killed; you know
21 there will be some injuries. You know a medical
22 examiner is going to talk about it.

23 So, everyone can assure me that you will be
24 able to handle that, listen to it, and still objectively
25 evaluate the case and the evidence?

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1 (AFFIRMATIVE RESPONSE FROM JURORS)

2 MR. SIMONS: Mr. Li, no problem?

3 PROSPECTIVE JUROR: A little, because my
4 English is not so good. Maybe about 60 or 70 percent I
5 understand. Some I don't understand.

6 THE COURT: Okay. You said you only
7 understand English 60 to 70 percent. Okay.

8 MR. SIMONS: Do you feel that will be a
9 problem -- I mean, it will get technical when you do
10 hear it. I believe Mr. Hale mentioned there were
11 several people injured. So, you will hear from, I don't
12 know, one doctor or multiple doctors describing the
13 injuries, and I'm sure they will use some medical terms,
14 and you could have a read back to you, but do you feel
15 that may be a problem for you in fairly judging this
16 case?

17 PROSPECTIVE JUROR: Yeah, a little problem.

18 MR. SIMONS: Anyone else?

19 I'm not saying you need a medical degree. I
20 mean, they will be witnesses, they will explain things
21 and you would just have to listen and analyze it and
22 judge it for yourself.

23 Sir, you raised your hand. I'll ask you what
24 is your concern?

25 PROSPECTIVE JUROR: You know, the same

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1 problem. Like I understand the words, because court and
2 the medical words are difficult to understand for me.

3 MR. SIMONS: Like I said, you don't have to
4 know the medical words. They will be explained to you.
5 The question is: After it is explained to you, will you
6 still be able to fairly analyze what you hear?

7 PROSPECTIVE JUROR: Not good. Just so-so.

8 MR. SIMONS: Now, have you been able to
9 understand everything that you've heard from the judge,
10 from Mr. Hale and myself so far?

11 PROSPECTIVE JUROR: No.

12 MR. SIMONS: Okay. Since we're using a
13 percentage, about how much percent did you understand?
14 100 percent? 95 percent? I don't want to give numbers
15 to you, but around how much did you understand?

16 PROSPECTIVE JUROR: Around 70, 75.

17 MR. SIMONS: Anyone else?

18 Let me ask, Miss Chardavoyne. How long have
19 you been a timekeeper at the Brooklyn District
20 Attorney's Office?

21 PROSPECTIVE JUROR: Since 1999.

22 MR. SIMONS: Is that at 320 Jay Street?

23 PROSPECTIVE JUROR: 350 Jay.

24 MR. SIMONS: 350. Excuse me.

25 PROSPECTIVE JUROR: We're at 320 now.

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1 MR. SIMONS: Now, Mr. Hale works at the
2 District Attorney's Office.

3 PROSPECTIVE JUROR: I do staff time only. So
4 I have no -- The attorneys I don't see.

5 MR. SIMONS: You don't know Mr. Hale as he
6 sits here?

7 PROSPECTIVE JUROR: No.

8 MR. SIMONS: The fact that you do work for the
9 District Attorney's Office and it's the District
10 Attorney's Office that's office bringing this case, do
11 you feel that any influence at all would be put on you
12 to decide one way or the other?

13 PROSPECTIVE JUROR: No.

14 MR. SIMONS: Miss Jones?

15 PROSPECTIVE JUROR: Yes.

16 MR. SIMONS: You had made a statement --
17 actually, you made a couple statements. I believe you
18 said that you were shot when you were 14 years old.

19 PROSPECTIVE JUROR: Yes.

20 MR. SIMONS: Do you feel that may be a problem
21 of how you evaluate this case? Because, as you heard,
22 there were four people that were shot and injured in
23 this case.

24 PROSPECTIVE JUROR: No.

25 MR. SIMONS: You did mention at some point,

1 and I didn't get all of it, that you can't make a
2 decision or -- Did you say something like that?

3 PROSPECTIVE JUROR: No, he said -- I think
4 the question was as far as having sympathy or something
5 like that, having sympathy for someone, and I said I'm
6 always sympathetic to people. So, if that came into
7 play, that probably would have an affect on my judgment.

8 MR. SIMONS: Now, in the judge told you, and
9 I'm sure the judge may tell you, that you cannot use
10 sympathy at all, in either way, to decide this case,
11 would you be able to follow the judge's decision and
12 make a decision without using sympathy?

13 PROSPECTIVE JUROR: Honestly, I'm not sure. I
14 don't know.

15 MR. SIMONS: You remember that airplane in the
16 storm? You know, the pilot says, "I'm not sure whether
17 I could land it." You know, everybody gets a little
18 nervous. You can't assure us you can do that?

19 PROSPECTIVE JUROR: I can't assure you I will
20 do that.

21 MR. SIMONS: Okay.

22 Now, Miss Jackson, I believe you also
23 mentioned that it was your goddaughter's father who was
24 killed about two years ago.

25 PROSPECTIVE JUROR: Correct.

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1 MR. SIMONS: Do you feel that would influence
2 you or affect you in any way in evaluating or handling
3 this case?

4 PROSPECTIVE JUROR: No.

5 MR. SIMONS: No problem being fair and
6 impartial and judging the evidence on what you hear?

7 PROSPECTIVE JUROR: No.

8 MR. SIMONS: Okay.

9 Let me go to Miss Munim. You also mentioned
10 that your brother-in-law was I believe murdered and
11 robbed.

12 PROSPECTIVE JUROR: Yes.

13 MR. SIMONS: How long ago was that?

14 PROSPECTIVE JUROR: Actually it was more than
15 ten years ago. I'm thinking it would be about fifteen
16 years.

17 MR. SIMONS: Okay, fifteen years.

18 Now, do you think that would have any effect
19 at all in evaluating anything, you know, this being a
20 murder case?

21 PROSPECTIVE JUROR: No.

22 MR. SIMONS: Does anyone have any questions
23 for me?

24 (NO RESPONSE)

25 MR. SIMONS: Well then thank you very much.

1 THE COURT: Jurors, what's going to happen at
2 this point is that the attorneys and myself will discuss
3 who's to be selected to sit on this jury panel. If
4 you're not selected to serve as a juror on this
5 particular case, please don't take it as any indication
6 or a statement on your character or self-worth, because
7 it is not.

8 Again, we have the highest responsibility to
9 choose as trial jurors those individuals who will be
10 fair and impartial and give both sides a fair trial.

11 Also, I will remind you, as well as the people
12 in the audience, please do not discuss any aspect of
13 this case amongst yourselves or with anyone else.

14 If anyone attempts to improperly discuss this
15 case with you, do not discuss it with your co-jurors,
16 but you are to bring it to the Court's attention
17 immediately.

18 So, what's going to happen at this point is
19 that the jurors that are seated will remain outside
20 until you're brought back in. Those in the jury box
21 also will remain outside until you're brought back in by
22 one of the court officers. So, you'll remain outside
23 until you're brought back in.

24 Please follow the direction of the court
25 officer.

1 You can leave the questionnaires on your seat.

2 (At this time, the panel of prospective jurors
3 left the courtroom)

4 THE COURT: Certainly, Mr. Hale, if you want
5 to be heard on the objection that I sustained when
6 Mr. Simons made it in regard to the psychiatric element,
7 I'll give you the opportunity.

8 MR. HALE: Yes, your Honor.

9 We have notice now of intent to present this
10 sort of testimony--Doctor Drob has been put on the
11 witness list. It is important to know how the jurors
12 feel about psychiatric experts, but it's also important
13 to know how they feel about their general perception of
14 psychiatric testimony, which I don't think that they can
15 do in a vacuum. I tried the best that I could.

16 I think it's rather disingenuous at this point
17 if that is, in fact, going to be the defense to sit
18 there and cloak it. I think the jurors should know
19 that, that the defendant is intending to place an
20 affirmative defense or a mitigation regarding
21 psychiatric testimony.

22 Since I go first, obviously, I have to know
23 how the jurors feel about that particular type of
24 evidence, because it is something that there is popular
25 perception about.

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1 I didn't understand at the time when the Court
2 sustained the objection, but I understood within that
3 framework, I tried to deal with it as best that I could.
4 I thank the Court for the latitude that it did give me.
5 But I don't know why we're sticking it under a bush
6 right now. I have no clue.

7 THE COURT: Yes?

8 MR. SIMONS: Your Honor, I objected because
9 psychiatric testimony is an affirmative defense, but the
10 People still have to go forward and establish the
11 evidence beyond a reasonable doubt. The defense, I did
12 not bring up a specific psychiatric defense, and I don't
13 really have to do anything. Because if the People fail
14 their burden, then I don't ever have to present it.

15 Mr. Hale got all the questions out regarding
16 if anyone couldn't handle psychiatric evidence if they
17 hear it. So, he got everything out that he wanted
18 without specifically saying the defense has a
19 psychiatric defense.

20 MR. HALE: Except that the Court had given me
21 instruction that the People have the burden and that
22 burden never shifts. Except in regard to the
23 psychiatric defenses, there is a burden that is placed
24 upon the defense to prove it by a preponderance of the
25 evidence. I wanted to know from the jurors whether they

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1 thought that that was fair or not or whether they could
2 accept that or not. That's fair questioning to see what
3 their qualifications are.

4 THE COURT: Let me say this, that I sustained
5 it because the defense has no obligation or burden. I
6 understand what you're saying, the fact that it's
7 raised. Certainly, Mr. Hale, I believe you got in the
8 questions that you wanted the jurors to consider, as
9 well that they should, in terms of any kind of
10 psychiatric considerations and how they feel about it.
11 Certainly, that would be important.

12 But, again, the defense has no obligation or
13 burden to do anything whatsoever, and it wasn't
14 mentioned by them at this point, so I don't want to be
15 perceived as shifting any burden at this point. Because
16 they really didn't raise it, and they have no obligation
17 to raise it.

18 MR. HALE: It doesn't, but again, Judge, it
19 doesn't say that they have to put that on. But to not
20 deal with it, and I think in a vacuum -- I'm glad the
21 Court thinks I got everything out, I didn't, in my
22 opinion, because the jury is left there trying to guess
23 what I'm talking about. Maybe some guessed right, maybe
24 some guessed wrong. I don't know. But I don't think
25 they should have to guess. That's all.

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1 THE COURT: Let me say this, that if, in fact,
2 in the worse case scenario, it's not put on at all, I
3 don't know, then certainly I don't want it to appear
4 that they were obligated to put anything on at this
5 point. I don't know what the twists and turns will be,
6 Mr. Hale, but certainly it's not for me to guess.

7 MR. HALE: I think it's somewhere in the case
8 law, Judge, and of course I don't have it right here
9 with me, but I know I've done that a number of times in
10 a number of other courtrooms, and I have litigated
11 before, Judge.

12 THE COURT: As I said, I don't have a problem
13 with you questioning them in regard to their feelings
14 about it and whether, in fact, they would consider that.

15 (Pause in the proceedings)

16 THE COURT: Are both sides ready, or do you
17 need another minute?

18 MR. SIMONS: We're ready.

19 MR. HALE: Ready.

20 THE COURT: Challenges for cause as to
21 prospective jurors one through twelve.

22 People?

23 MR. HALE: Number two, Mr. Hunt, who's worried
24 about the hedge fund.

25 THE COURT: Mr. Simons?

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1 MR. SIMONS: No objection, Judge.

2 THE COURT: Number two will be excused for
3 cause, on consent.

4 Is that it for your cause challenges,
5 Mr. Hale?

6 MR. HALE: Number four, Miss Ruocco, who
7 has -- her problem was with sympathy or the emotional
8 side of the case, I believe, in terms of her background,
9 in terms of her son having been murdered.

10 MR. SIMONS: No objection.

11 THE COURT: Number four will be excused for
12 cause, on consent.

13 Is that it?

14 MR. HALE: No.

15 Number ten, Mr. Li, who only understands about
16 60 or 70 percent of what's going on.

17 MR. SIMONS: No objection.

18 THE COURT: Number ten will be excused for
19 cause, on consent.

20 MR. HALE: Mr. Diaz Valdez, number eleven, has
21 a similar problem, that he doesn't understand English to
22 the full extent.

23 THE COURT: Mr. Simons?

24 He did indicate that he didn't understand.

25 MR. SIMONS: No objection.

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1 THE COURT: Number eleven will be excused for
2 cause, on consent.

3 Is that it for your cause challenges?

4 MR. HALE: From the first twelve, yes.

5 THE COURT: Any cause challenges as to the
6 remaining jurors, one through twelve, Defense?

7 MR. SIMONS: No.

8 THE COURT: Any peremptory, People, as to the
9 remaining jurors, one through twelve?

10 MR. HALE: Yes.

11 Number one.

12 THE COURT: Is that it?

13 MR. HALE: No.

14 Number three.

15 That's it.

16 THE COURT: Any peremptories as to the
17 remaining jurors, Defense?

18 MR. SIMONS: Number seven.

19 Number six.

20 THE COURT: Is that it?

21 MR. SIMONS: One second, please.

22 THE COURT: Certainly.

23 (Defendant consulting with counsel)

24 MR. SIMONS: Number eight.

25 That's it, Judge.

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1 THE CLERK: So Stephen Ment is juror
2 number one.

3 Milagros Nunez is juror number two.

4 Jennifer Jordan is juror number three.

5 We have three selected jurors.

6 The People have used two challenges; the
7 defense has used three.

8 THE COURT: Any challenges for cause as to
9 prospective jurors thirteen through eighteen, People?

10 MR. HALE: Number sixteen, Mr. Chaudry.

11 MR. SIMONS: No objection.

12 THE COURT: Number sixteen will be excused for
13 cause, on consent.

14 MR. HALE: And number seventeen, Ms. Jones,
15 who had a plethora of problems regarding controlling
16 emotions and sympathy.

17 MR. SIMONS: I have no objection.

18 THE COURT: And number seventeen will be
19 excused for cause, on consent.

20 MR. HALE: That's it.

21 THE COURT: Any cause challenges as to any of
22 the other jurors, thirteen through eighteen, Defense?

23 MR. SIMONS: No.

24 THE COURT: Any peremptories, People, as to
25 the remaining jurors, thirteen through eighteen.

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1 MR. HALE: Number fourteen,
2 Mr. Santandermorales.

3 THE COURT: Is that it?

4 MR. HALE: Yes, your Honor, that's it.

5 THE COURT: Defense?

6 MR. SIMONS: Number thirteen.

7 Number fifteen.

8 That's it.

9 THE COURT: Certainly, for the record,
10 Mr. Simons, you've been discussing -- Well, I can tell
11 that you have. In terms of the jurors who are to be
12 selected, you've been discussing that with your client
13 as well?

14 MR. SIMONS: Yes. He's very active in
15 selecting the jury.

16 THE CLERK: We have selected four jurors.

17 The People have used three challenges; the
18 defense has used five.

19 Tracy Jackson is juror number four.

20 THE COURT: Let me say this, that we don't
21 have enough time to go through another round. Normally
22 I try to make them stay, but I don't think that they may
23 be up for that. We can start at 9:30 in the morning.

24 We have nineteen jurors who are good jurors
25 that we can get through, then we have I think like three

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1 or four reserve jurors who we indicated we would excuse.

2 So, we can start at 9:30, and then I don't
3 know if we can press them to give us another panel, as
4 many as they can give us, to start up fresh tomorrow.

5 What I would need to know from both sides is
6 whether you want the sworn jurors to come back or just
7 to be told to come back on Monday at 10:00, which is
8 normally the time that I would give them.

9 MR. SIMONS: Your Honor, I have no objection
10 for the jurors coming back on Monday.

11 THE COURT: The sworn jurors.

12 MR. SIMONS: Yes, the sworn jurors.

13 MR. HALE: That's fine, Judge.

14 THE COURT: And the others will be told to
15 come tomorrow at 9:30.

16 MR. SIMONS: Okay.

17 THE COURT: Okay. Let's bring the ones in the
18 box in and put them in the front row, and everybody else
19 will fill in around them.

20 (Pause in the proceedings)

21 COURT OFFICER: Ready, Judge?

22 THE COURT: Yes.

23 (At this time, the panel of prospective jurors
24 entered the courtroom)

25 THE CLERK: Ladies and gentlemen, we have

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1 selected four jurors. I will call those names. Please
2 answer here or present as I call your name.

3 Stephen Ment.

4 JUROR: Here.

5 THE CLERK: Milagros Nunez.

6 JUROR: Here.

7 THE CLERK: Jennifer Jordan.

8 JUROR: Here.

9 THE CLERK: And Tracy Jackson.

10 JUROR: Here.

11 THE CLERK: Thank you.

12 If I just called your name, remain seated.

13 If you were in the jury box and I didn't call
14 your name, only those people in the jury box who I
15 didn't call your name, go outside and wait for
16 instructions from one of the court officers. They'll
17 give you further instructions.

18 THE COURT: For those who weren't in the jury
19 box, if you weren't in the jury box, you have to remain
20 inside.

21 (At this time, the unselected jurors left the
22 courtroom)

23 THE CLERK: Will the four selected jurors
24 please rise.

25 Raise your right hand.

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1 Answer the following question: Do you and
2 each of you sincerely and solemnly swear or affirm that
3 you will try this case in a just and impartial manner,
4 to the best of your judgment, and that you will render a
5 verdict according to the law and the evidence?

6 Please say "I do."

7 (AFFIRMATIVE RESPONSE FROM JURORS)

8 THE CLERK: Thank you.

9 Be seated, please.

10 THE COURT: Certainly, I will say to the
11 jurors in the audience as well, as you can tell, jury
12 selection is a slow and a tedious process, but an
13 important one. Because certainly both sides are
14 entitled to have jurors who will be fair and impartial
15 and give both sides a fair trial.

16 To those jurors who have not had an
17 opportunity to be seated in the jury box. You're going
18 to have to come back tomorrow to be questioned by the
19 Court. Certainly, you'll get here at 9:30 and we'll get
20 started at 9:30. Please be here on time, jurors.

21 Also, I'm going to instruct you that when you
22 come back tomorrow, certainly do not come into the
23 courtroom. You'll wait outside until you're brought
24 back in by one of the court officers.

25 Certainty, you found your way to this

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1 courtroom, 20.21. This is where you will return
2 tomorrow morning at 9:30.

3 Again, jurors, please do not discuss any
4 aspect of the case amongst yourselves or with anyone
5 else, or permit anyone else to discuss it in your
6 presence.

7 For those of you who have not gotten into the
8 jury box, you'll return at 9:30.

9 The four sworn jurors, just remain here
10 momentarily.

11 Everyone else can leave. You have a good
12 evening, I'll see you tomorrow morning at 9:30 in the
13 morning.

14 (At this time, the panel of prospective jurors
15 left the courtroom)

16 THE COURT: Certainly, I will say to the sworn
17 jurors, you can tell that jury selection is going to be
18 a long and a tedious process. I've spoken with the
19 attorneys, and they've been gracious enough to agree
20 with the Court that we're not going to make you come
21 back tomorrow.

22 Certainly, for those of you who are working,
23 you have to return to your places of employment on
24 Thursday and on Friday. We are scheduled to begin this
25 case on Monday morning at 10 a.m.

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1 Therefore, jurors, if you are working, you
2 must return to work on Thursday and Friday, and you'll
3 return to this courthouse on Monday, which is May 5th,
4 at 10:00.

5 There is a jury room that you'll be shown to,
6 where you should go when you report on that date.

7 Again, you will not come back to the
8 courtroom, you will go directly to the jury room that
9 the officer will show you to.

10 You won't be permitted to go in, there's
11 somebody in there now, but certainly that is the room
12 you will come to on Monday, May 5th, at 10 a.m.

13 You'll follow the direction of the officer.

14 (At this time, the four sworn jurors left the
15 courtroom)

16 THE COURT: Also, if the nineteen jurors show
17 up tomorrow at 9:30, we'll have the nineteen to work
18 with, and you'll have fifteen minutes.

19 I'm going to try to do everything that I can
20 to try to get a new panel up. The regular clerk is not
21 going to be here tomorrow morning, so I'll do everything
22 that I can to advise the clerk, but I've been told that
23 normally they don't like to send up additional jurors
24 until we've exhausted the panel. We'll try to do that
25 as expeditiously as possible.

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1 Hopefully Mr. Waiters will be here at 9:30 as
2 well.

3 * * * * *

4 (At this time, court stands in recess, and the
5 trial adjourned to Thursday, May 1, 2008, at 10:00 a.m.)
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PROCEEDINGS

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS : CRIMINAL TERM : PART 1

- - - - -X

THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT NO.
3464/06

- against - :

GENERAL WAITERS :

DEFENDANT : JURY VOIR DIRE

- - - - -X

320 JAY STREET
BROOKLYN, NEW YORK 11201

MAY 1, 2008

BEFORE: HONORABLE DEBORAH A. DOWLING, JUSTICE

APPEARANCES:

CHARLES J. HYNES, ESQ.
District Attorney, Kings County
BY: MARK HALE, ESQ.
Assistant District Attorney

CALVIN J. SIMONS, ESQ.
Attorney for Defendant
616 Eastern Parkway
Brooklyn, New York

VINCENT M. GERALDI, JR.
SENIOR COURT REPORTER

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1 THE COURT: This is number two on the
2 calendar, Indictment number 3464 of 2006, General
3 Waiters.

4 MR. SIMONS: Calvin Simons, for Mr. Waiters.

5 MR. HALE: The Office of the District
6 Attorney, by Mark Hale.

7 THE COURT: Certainly all parties are here
8 with the defendant, Mr. Waiters.

9 I will do a check in the hallway. There
10 should be nineteen viable jurors, and then four jurors
11 who indicated previously that they could not serve for
12 that length of time, and we indicated they would be
13 excused but not at the time they were requesting.

14 So, we're going to call to make sure that the
15 jurors, the nineteen jurors or however many jurors are
16 present.

17 (Pause in the proceedings)

18 COURT OFFICER: Ready for the panel?

19 THE COURT: Both are sides ready?

20 MR. HALE: Yes.

21 MR. SIMONS: Yes.

22 THE COURT: Yes.

23 COURT OFFICER: Panel entering.

24 (At this time, the panel of prospective jurors
25 entered the courtroom)

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1 THE COURT: Good morning, jurors.

2 I apologize for the delay.

3 What's going to happen is that names will be
4 called for people to have a seat in the jury box.
5 Hopefully you were paying attention, because we will be
6 asking you the same types of questions that we asked the
7 jurors yesterday.

8 THE CLERK: As I call your name, please take
9 the seat in the jury box.

10 Philip Lombardo, seat number one.

11 L-O-M-B-A-R-D-O.

12 Joseph Johnson.

13 He's not Present.

14 Yvrote Duplan, seat number two.

15 First name is Y-V-R-O-T-E; last name is
16 D-U-P-L-A-N.

17 Robert Camp, seat number three.

18 C-A-M-P.

19 Patricia Anna-Munro Hills, seat number four.

20 That's A-N-N-A - M-U-N-R-O H-I-L-L-S.

21 Dwight Bartholomew, seat number five.

22 No appearance.

23 Irma Archer, seat number five.

24 A-R-C-H-E-R.

25 Mark Punch, seat number six.

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1 No appearance.

2 Pauletta Ferreira, seat number six.

3 F-E-R-R-E-I-R-A.

4 Odette Holness, seat number seven.

5 H-O-L-N-E-S-S.

6 Baynes Richards, seat number eight.

7 First name is B-A-Y-N-E-S; Richards is the
8 last name.

9 Michelle Denzine, seat number nine.

10 D-E-N-Z-I-N-E.

11 Nicole Castle, seat number ten.

12 C-A-S-T-L-E.

13 Dane Johnson.

14 No appearance.

15 Beatrice Wright, seat number eleven.

16 W-R-I-G-H-T.

17 Lucille Lovisi, seat number twelve.

18 L-O-V-I-S-I.

19 JoAnne Dalleo Locascio, seat number thirteen,
20 in the back row.

21 D-A-L-L-E-O L-O-C-A-S-C-I-O.

22 Janice Porter, seat number fourteen, in the
23 front row.

24 P-O-R-T-E-R.

25 Sally Brisbon, seat number fifteen, in the

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1 back row.

2 B-R-I-S-B-O-N.

3 Camilla Avril, seat number sixteen, front row.

4 A-V-R-I-L.

5 Guadalupe Rosales, seat number seventeen, back
6 row.

7 G-U-A-D-A-L-U-P-E, first name; R-O-S-A-L-E-S.

8 Joshua Baez, seat number eighteen.

9 B-A-E-Z.

10 THE COURT: May I see counsel at sidebar.

11 (Off-the-record discussion held at the bench)

12 THE COURT: Jurors, what I'm going to do,
13 since there are so few jurors left in the audience, I'm
14 going to just question everybody as well.

15 THE CLERK: The following individuals, you're
16 going to be taking seats in the first row, but you will
17 still be as if you were in the jury box.

18 This will be seat number nineteen, Mildred
19 Torres.

20 T-O-R-R-E-S.

21 Linda Lalima, seat number twenty.

22 L-A-L-I-M-A.

23 Wen Wu, seat number twenty-one.

24 First name W-E-N; W-U.

25 Yvone Findlay, seat number twenty-two.

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1 That's Y-V-O-N-E, F-I-N-D-L-A-Y.

2 Tee Ooi, seat number twenty-three.

3 That's T-E-E O-O-I.

4 THE COURT: Again, jurors, I hope you were
5 paying attention because it is important that we hear
6 your answers.

7 Jurors, there are no right or wrong answers,
8 only truthful answers.

9 Again, if you think there is anything that
10 might interfere with your judgment, it's important for
11 us to know.

12 Starting with question number one,
13 Mr. Lombardo, and going straight down with your answers,
14 please.

15 PROSPECTIVE JUROR: My name is Philip
16 Lombardo.

17 My age is 20.

18 My place of birth is Coney Island, Brooklyn,
19 New York.

20 I live in the neighborhood of Bensonhurst
21 Brooklyn.

22 My occupation is casual mail handler for the
23 United States Postal Service.

24 Number six, G.E.D.

25 Number seven, I am single.

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1 Number eight, I live with my sister, who is a
2 student.

3 Number nine, no.

4 Number ten, no.

5 Number eleven, no.

6 Number twelve, yes. I train with several
7 police officers in mixed martial arts.

8 Thirteen, no.

9 Fourteen, no.

10 THE COURT: Thank you.

11 Mr. Duplan?

12 PROSPECTIVE JUROR: My name is Yvrote Duplan.

13 My age is 45.

14 My place of birth is Haiti.

15 I live in East Flatbush, Brooklyn.

16 My occupation is teacher.

17 Number six, college.

18 Seven, divorced. One child.

19 Number eight --

20 THE COURT: What is the occupation of your
21 ex-spouse? What did your ex-wife do for a living,
22 Mr. Duplan?

23 PROSPECTIVE JUROR: She's a nurse.

24 Number eight, I live alone. My daughter is in
25 college.

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1 Number nine, no.

2 Number ten, no.

3 Number eleven, no.

4 Number twelve, no.

5 Number thirteen, yes.

6 THE COURT: Can you tell us about that,

7 Mr. Duplan.

8 PROSPECTIVE JUROR: My car was vandalized a
9 couple of times, about ten to fifteen years ago.

10 THE COURT: Was anyone arrested as a result of
11 those experiences that you had?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Anything about those experiences,
14 Mr. Duplan, that might affect your ability to sit on
15 this case and judge the evidence fairly in this case,
16 sir?

17 PROSPECTIVE JUROR: Not at all.

18 THE COURT: Question number fourteen?

19 PROSPECTIVE JUROR: Number fourteen, no.

20 THE COURT: Thank you.

21 Mr. Camp?

22 PROSPECTIVE JUROR: My name is Robert Camp.
23 My age is 27.

24 My place of birth, number three, is Bronx, New
25 York.

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1 Number four, I live in Sunset Park, Brooklyn.

2 Number five, I'm a business analyst.

3 My six, Bachelor's degree.

4 Number seven, I'm single. No children.

5 Number eight, I live with my girlfriend, who
6 is a student.

7 Number nine, no.

8 Number ten, no.

9 Eleven, no.

10 Twelve is no.

11 Thirteen is no.

12 Fourteen is no.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR: My name is Patricia Hills.

15 Number two, my age is 49.

16 My place of birth is Grenada, West Indies.

17 I live in East Flatbush.

18 My occupation is retail and seamstress.

19 High school diploma.

20 I'm divorced, with two children, age 26
21 and 23.

22 THE COURT: Your ex-husband, what did he do
23 for a living?

24 PROSPECTIVE JUROR: He was a teacher.

25 Nine, one is a graphic artist, and the other

1 one is administrative assistant.

2 Number nine, no.

3 Ten, no.

4 Eleven, no.

5 Twelve, no.

6 Thirteen, no.

7 Fourteen, no.

8 THE COURT: Thank you.

9 Miss Archer?

10 PROSPECTIVE JUROR: My name is Irma Archer.

11 My age is 43.

12 My place of birth is Trinidad, West Indies.

13 I live in Sunset Park, Brooklyn.

14 I'm a housewife.

15 G.E.D.

16 I'm married with two young children, ages five
17 and six.

18 Number eight is yes.

19 Number nine is no.

20 Ten, no.

21 Eleven, no.

22 Twelve, yes. My husband.

23 THE COURT: What does your husband do?

24 PROSPECTIVE JUROR: He's a police officer.

25 Thirteen, yes.

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1 THE COURT: Can you tell us about that.

2 PROSPECTIVE JUROR: My husband's youngest
3 brother was murdered.

4 THE COURT: How long ago was that?

5 PROSPECTIVE JUROR: About 12 years ago.

6 THE COURT: Did that happen in Brooklyn or
7 somewhere else?

8 PROSPECTIVE JUROR: Somewhere else.

9 THE COURT: Anything about that experience,
10 which has to be a traumatic experience for you as well
11 as your husband's family, anything about that that might
12 affect your ability to sit on this particular case,
13 based on the nature of the accusations in this
14 particular case?

15 PROSPECTIVE JUROR: No.

16 Number fourteen, no.

17 THE COURT: Thank you.

18 Miss Ferreira?

19 PROSPECTIVE JUROR: My name is Pauletta
20 Ferreira.

21 Age 41.

22 Guyana.

23 I live in East New York.

24 My occupation is supervising housekeeping.

25 I graduated from Bishops High School,

1 Georgetown, Guyana.

2 I'm married four months ago.

3 My son is going to be 20. He attends
4 Bridgeport University, studying architecture, forensic
5 science.

6 Number nine, no.

7 Number ten, no.

8 Eleven, no.

9 Twelve, no.

10 Thirteen, no.

11 Fourteen, no.

12 THE COURT: What does your husband do for a
13 living, Miss Ferreira?

14 PROSPECTIVE JUROR: He lives in Guyana.

15 THE COURT: What is the nature of his
16 employment in Guyana?

17 PROSPECTIVE JUROR: He has a boutique.

18 THE COURT: Thank you.

19 Miss Holness?

20 PROSPECTIVE JUROR: My name is Odette Holness.

21 I am 59.

22 THE COURT: Miss Holness, can you just keep
23 your voice up. You're speaking so sweetly, I could
24 barely hear you, and I'm looking right at you.

25 PROSPECTIVE JUROR: I'm sorry.

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1 Odette Holness

2 59.

3 Costa Rica.

4 I live in East Flatbush.

5 I'm a registered nurse, manager.

6 I have a Master's degree.

7 I am married.

8 My husband is a computer programmer.

9 I served in the Grand Jury.

10 No to number ten.

11 No to number eleven.

12 No to number twelve.

13 Yes, to number thirteen.

14 THE COURT: Can you tell us about that,
15 Miss Holness.

16 PROSPECTIVE JUROR: My younger son was
17 assaulted as a teenager.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR: I'm sorry?

20 THE COURT: How long ago did that happen?

21 PROSPECTIVE JUROR: About eight years ago.

22 THE COURT: Was anyone arrested as a result of
23 that incident?

24 PROSPECTIVE JUROR: Yes, he was. There was a
25 trial, and he got three years probation and anger

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1 management training.

2 THE COURT: Anything about the experience that
3 your son had with being assaulted and what you just
4 described your family went through, anything about that
5 that might affect your ability to sit on this particular
6 case and be fair in this particular case, Miss Holness?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Question number fourteen.

9 PROSPECTIVE JUROR: No.

10 THE COURT: Thank you.

11 You mentioned you have a son. If so, what are
12 the ages and occupations of your children?

13 PROSPECTIVE JUROR: I have three children. My
14 older son is 28, my second son is 26, and my daughter
15 is 23.

16 THE COURT: What are their occupations? What
17 do they do for a living?

18 PROSPECTIVE JUROR: My older son is in
19 business, my second son is in marketing, and my daughter
20 is in business.

21 THE COURT: Thank you, Miss Holness.

22 Mr. Richards?

23 PROSPECTIVE JUROR: My name is Baynes Patrick
24 Richards.

25 My age is 80 years or age.

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1 My place of birth is Guyana.

2 I live in Brooklyn.

3 My occupation is a laundry worker.

4 Seven, 11th grade in school.

5 I am single.

6 Occupation of other members of household, I
7 have none.

8 Have you ever previously served on a jury?

9 Yes. That was five years ago.

10 Number ten, do you have serious vision --

11 Sometimes because I walk between machinery.

12 THE COURT: Mr. Richards, let me stop you for
13 a moment.

14 You said you have a vision problem. Is it
15 corrected by your glasses, sir, or no?

16 PROSPECTIVE JUROR: Yes, ma'am.

17 THE COURT: Okay.

18 Question number eleven is where I stopped you.

19 PROSPECTIVE JUROR: Do you know anybody who
20 have any legal training? Yes, ma'am, my daughter.

21 Do you know any person who is involved in law
22 enforcement? My daughter.

23 Number thirteen, no.

24 Number fourteen, no.

25 THE COURT: You mentioned your daughter works

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1 in the legal field. What area is it? Criminal? Civil?

2 PROSPECTIVE JUROR: Well, she's in John Jay
3 College. She have one more semester. But she works at
4 Rikers Island; she's a captain there.

5 THE COURT: Also, you mentioned that you live
6 in Brooklyn. Without telling us what the address is,
7 what part of Brooklyn.

8 PROSPECTIVE JUROR: I'm sorry. 702 --

9 THE COURT: Don't tell us the address. I may
10 come for dinner tonight. Just tell us the area, whether
11 it's Flatbush, Canarsie, Coney Island.

12 PROSPECTIVE JUROR: Crown Heights.

13 THE COURT: Your age, sir.

14 PROSPECTIVE JUROR: 80. Born 1928, 15th of
15 March.

16 THE COURT: You're going to tell us
17 everything, Mr. Richards.

18 Thank you.

19 Miss Denzine?

20 PROSPECTIVE JUROR: My name is Michelle
21 Denzine.

22 My age is 43.

23 Place of birth, Trinidad, West Indies.

24 Neighborhood, Crown Heights.

25 Occupation, housekeeper.

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1 Graduated from high school.

2 I'm single.

3 My mom is a housekeeper also.

4 Nine is no.

5 Ten is no.

6 Eleven is no.

7 Twelve is no.

8 Thirteen is yes.

9 THE COURT: Can you tell us about your yes
10 answer, Miss Denzine.

11 PROSPECTIVE JUROR: My cousin's cousin was
12 murdered, a drive-by shooting.

13 THE COURT: Did that happen in Brooklyn?

14 PROSPECTIVE JUROR: Yes, it did.

15 THE COURT: How long ago was that?

16 PROSPECTIVE JUROR: About August of last year.

17 THE COURT: Was anyone arrested as a result of
18 that?

19 PROSPECTIVE JUROR: I have no idea.

20 THE COURT: Certainly, I know that has to be a
21 traumatic event --

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: -- a traumatic incident for your
24 family. Anything about that experience that might
25 affect your ability to sit on this particular case?

JURY VOIR DIRE

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1 PROSPECTIVE JUROR: Yes, ma'am.

2 THE COURT: Okay.

3 Again, there are no right or wrong answers,
4 only truthful answers.

5 Question number fourteen?

6 PROSPECTIVE JUROR: Fourteen, yes. My brother
7 was arrested for robbery ten years ago.

8 THE COURT: Was that in Brooklyn or somewhere
9 else?

10 PROSPECTIVE JUROR: Brooklyn.

11 THE COURT: Anything about the way that he was
12 treated by the Police Department or the District
13 Attorney's Office that might affect your ability to sit
14 on this case and judge the evidence fairly in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Miss Castle?

17 PROSPECTIVE JUROR: My name is Nicole Castle.
18 My age is 39.

19 Place of birth, Trinidad Tobago, West Indies.
20 I live in Crown Heights.

21 My occupation, I'm a field mechanic with
22 Keyspan Energy.

23 I graduated from senior secondary school in
24 Trinidad.

25 I'm divorced, but I'm also engaged.

JURY VOIR DIRE

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1 Occupation a member of my household, my fiance
2 is a elevator mechanic.

3 I have one son, he's a student, and he works
4 part-time in a nursing home.

5 Number nine is no.

6 Number ten is no.

7 Number eleven is no.

8 Number twelve is yes. My son's father is a
9 police inspector back in Trinidad Tobago.

10 Number thirteen is yes. I was a victim of a
11 crime while on duty with Keyspan. There was some kind
12 of shooting between two people in the housing project on
13 Bainbridge and Patchen about three years ago. While I
14 was working, heading back to the company vehicle, one of
15 the guy was running up the street, and I just paid
16 attention that he was running in my direction with a gun
17 in his hand, so I jumped into the company truck and
18 locked the door. He didn't get me, but he throw the gun
19 over the fence. I was working with a City Marshal at
20 the time, and he held him. I was able to show the cops
21 were the gun was and everything.

22 THE COURT: Let me ask you this: Anything
23 about that experience that you just described that might
24 affect your ability to sit on this particular case?

25 PROSPECTIVE JUROR: No, nothing.

JURY VOIR DIRE

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1 THE COURT: Okay.

2 Number fourteen?

3 PROSPECTIVE JUROR: Number fourteen, yes. My
4 ex-husband, he was arrested for domestic violence about
5 thirteen years ago.

6 THE COURT: Anything about that experience
7 that might affect your ability to sit on this case and
8 be fair?

9 PROSPECTIVE JUROR: No. It was over thirteen
10 years ago.

11 THE COURT: Thank you.

12 Miss Wright?

13 PROSPECTIVE JUROR: Yes.

14 My name is Beatrice Wright.

15 My age is 53.

16 I was born in Harlem.

17 I live in Canarsie.

18 My occupation is home health aid.

19 I went to the 12th grade, but I didn't
20 graduate.

21 My daughter is 37. I have one child.

22 I'm a widow. My husband passed away.

23 THE COURT: What did he do for a living before
24 he passed away?

25 PROSPECTIVE JUROR: He did housing.

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1 Number nine, no.

2 Number ten, no.

3 Number eleven, no.

4 Number twelve, no.

5 Thirteen, no.

6 Fourteen, no.

7 THE COURT: You mentioned that you have a
8 daughter. What does she do for a living?

9 PROSPECTIVE JUROR: She's a stay-at-home mom.
10 She has two daughters.

11 THE COURT: Thank you.

12 Miss Lovisi?

13 PROSPECTIVE JUROR: Hi. My name is Lucille
14 Lovisi.

15 I'm 45 years old.

16 I was born in Sunset Park, Brooklyn.

17 I live in Homecrest.

18 I'm a clerk for the United States Postal
19 Service.

20 I went to college.

21 I'm married. My husband is also a clerk for
22 the Postal Service.

23 I've never served on a jury.

24 I have non-corrective nearsightedness in my
25 left eye, but my right eye is 20/20.

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1 I have friends who are lawyers.

2 THE COURT: What kind of law do they practice,
3 Miss Lovisi?

4 PROSPECTIVE JUROR: You know, like
5 slip-and-fall kind of things.

6 I have cousins who are police officers.

7 No to thirteen.

8 No to fourteen.

9 THE COURT: Thank you, Miss Lovisi.

10 Miss Dalleo Locascio?

11 PROSPECTIVE JUROR: My name is JoAnne Dalleo
12 Locascio.

13 I'm 49.

14 I was born in upstate New York.

15 I live in Greenpoint, Brooklyn.

16 I'm a special education teacher.

17 I have a Master's degree.

18 I am married, with two children, ages 13
19 and 19.

20 My husband is an architect.

21 I have not served on a jury.

22 The answers to ten through fourteen are
23 all no.

24 THE COURT: Thank you.

25 Miss Porter?

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1 PROSPECTIVE JUROR: My name is Janice Porter.
2 I'm 51.
3 My place of birth is St. Vincent, West Indies.
4 I live Bedford Stuyvesant.
5 My occupation, I'm a teacher.
6 College, Master's degree.
7 I am married. Two children, 20 and
8 21-and-a-half. They're both in college.
9 My husband is an auto mechanic.
10 I've never served on a jury.
11 Number ten, no.
12 Number eleven, no.
13 Number twelve, no.
14 Number thirteen, no.
15 Number fourteen, no.
16 THE COURT: Thank you.
17 Miss Brisbon?
18 PROSPECTIVE JUROR: My name is Sally Brisbon.
19 My age is 69.
20 My place of birth is Georgia.
21 I live in East Flatbush.
22 My occupation, retired.
23 I finished high school.
24 I have a Bachelor's in theology.
25 Married to the same man for 47 years.

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1 I have two children, 46 and 37.

2 My oldest son works for Transit. My youngest
3 son is autistic.

4 My husband retired from New York City Housing.

5 Number nine, I worked on a criminal jury about
6 four or five years ago.

7 From ten to fourteen, no.

8 THE COURT: Thank you.

9 You mentioned that you're retired. What line
10 of work did you retire from?

11 PROSPECTIVE JUROR: Nurse's aide.

12 THE COURT: Thank you.

13 Miss Avril?

14 PROSPECTIVE JUROR: My name is Camilla Avril.

15 I'm 58 years old.

16 My place of birth, St. Lucia.

17 I live in the neighborhood of Canarsie,
18 Brooklyn.

19 My occupation is laundry worker.

20 12th grade.

21 I am single. I have two children, age 31
22 and 19. She works with autistic children. The little
23 one goes to John Dewey High School.

24 I served Grand Jury five years ago.

25 THE COURT: You said that was Grand Jury five

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1 years ago?

2 PROSPECTIVE JUROR: Yes.

3 Number ten is no.

4 Number eleven is no.

5 Number twelve is no.

6 Number thirteen, no.

7 Number fourteen, no.

8 THE COURT: Thank you.

9 Miss Rosales?

10 PROSPECTIVE JUROR: My name is Guadalupe

11 Rosales.

12 I'm 27.

13 I was born in California. L.A.

14 I live in Bed Stuy.

15 I'm a coordinator.

16 I have a B.A.

17 I am single.

18 Eight is no.

19 Nine is no.

20 Ten is no.

21 Eleven, no.

22 Twelve, no.

23 Thirteen, yes. My cousin was killed like two

24 years ago.

25 THE COURT: Was that in Brooklyn or somewhere

1 else?

2 PROSPECTIVE JUROR: In California.

3 THE COURT: Anything about that experience --
4 First of all, was anyone ever arrested as a result of
5 that?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Do you know what happened to that
8 person's case, if you know?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Anything about that experience
11 that might affect your ability to sit on this particular
12 case and judge the evidence fairly in this case,
13 Miss Rosales?

14 Again, there are no right or wrong answers,
15 only truthful ones.

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay.

18 Question number fourteen?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Thank you.

21 Mr. Baez?

22 PROSPECTIVE JUROR: Yes. My name is Joshua
23 Baez.

24 My age is 44.

25 My place of birth is Manhattan, New York.

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1 I live in the neighborhood of East New York
2 in Brooklyn.

3 My occupation is fire protection inspector. I
4 have Peace Officer status.

5 I have an Associate degree from college.

6 I am married.

7 I have three children. Their ages are 16,
8 15, and 13.

9 My wife is a homemaker.

10 My mother-in-law is retired. She was probably
11 a homemaker before that. My father is retired. He was
12 a waiter.

13 I've never served on a jury.

14 Ten, I don't have any serious vision or
15 hearing problems.

16 Eleven, my sister is a lawyer.

17 THE COURT: What kind of law does she
18 practice, Mr. Baez?

19 PROSPECTIVE JUROR: She practices -- She did
20 family. Now she does immigration.

21 Twelve, my brother-in-law works in California
22 as a Correction officer.

23 Thirteen, no.

24 Fourteen, no.

25 THE COURT: Thank you.

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1 Miss Torres?

2 PROSPECTIVE JUROR: My name is Mildred Torres.

3 My age is 47.

4 I was born in Puerto Rico.

5 I live in Brooklyn.

6 My occupation is teacher's aide.

7 High school diploma.

8 I'm married. My husband is maintenance at a
9 health spa.

10 My daughter is 23. She works at Staples as a
11 cashier. My son is unemployed.

12 Nine through twelve, no.

13 Thirteen, yes.

14 THE COURT: Can you tell us about that.

15 PROSPECTIVE JUROR: My son's best friend was
16 shot and hammered three times in the head.

17 THE COURT: How long ago was that?

18 PROSPECTIVE JUROR: Twelve years.

19 THE COURT: Did that happen in Brooklyn or
20 somewhere else?

21 PROSPECTIVE JUROR: Yes, in Brooklyn.

22 THE COURT: Anything about your son's friend's
23 experience that might affect your ability to sit on this
24 case and judge the evidence in this case?

25 PROSPECTIVE JUROR: Yes.

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1 THE COURT: Fourteen?

2 PROSPECTIVE JUROR: Fourteen, no.

3 THE COURT: Thank you for your honesty.

4 PROSPECTIVE JUROR: You're welcome.

5 THE COURT: Miss Lalima?

6 PROSPECTIVE JUROR: My name is Linda Lalima.

7 I'm 48.

8 I was born in Bay Ridge, Brooklyn.

9 I live in Bensonhurst.

10 I work in data entry.

11 I've had some college.

12 Single.

13 Eight, no.

14 Nine, no.

15 Ten, no.

16 Eleven, no.

17 Twelve, I have some cousins that are cops.

18 Thirteen, I was mugged like seven years ago.

19 THE COURT: Was anyone arrested as a result of
20 that incident?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Anything about that experience,
23 Miss Lalima, that might affect your ability to sit on
24 this case and judge the evidence fairly in this case?

25 PROSPECTIVE JUROR: No.

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1 Fourteen, no.

2 THE COURT: Thank you.

3 Mr. Wu?

4 PROSPECTIVE JUROR: My name is Wen Wu.

5 I'm 21 years old.

6 I was born in China.

7 I live in Bensonhurst.

8 I'm a full-time student.

9 I'm single.

10 Nine through thirteen is no.

11 Fourteen is yes.

12 THE COURT: Can you tell us about your yes
13 answer.

14 PROSPECTIVE JUROR: I was arrested in a school
15 fight.

16 THE COURT: How long ago was that?

17 PROSPECTIVE JUROR: Four years.

18 THE COURT: What happened to your case?

19 PROSPECTIVE JUROR: It was thrown out.

20 THE COURT: Anything about the way you were
21 treated by the Police Department or the District
22 Attorney's Office that might affect your ability to sit
23 on this case --

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: -- and judge the evidence?

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1 PROSPECTIVE JUROR: Yes.

2 THE COURT: You said yes?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Okay.

5 Thank you.

6 Miss Findlay?

7 PROSPECTIVE JUROR: My name is Yvone Findlay.

8 My age is 52.

9 My place of birth is Jamaica, West Indies.

10 I live in Midwood, Brooklyn.

11 My occupation is auditor.

12 School, high school diploma.

13 I'm single. No children.

14 Number eight, not applicable.

15 I served on a civil jury four years ago. It
16 was settled before deliberations.

17 Ten through fourteen, no.

18 THE COURT: Thank you.

19 Mr. Ooi?

20 PROSPECTIVE JUROR: My name is Tee Ooi.

21 I'm 47.

22 I was born in Malaysia.

23 I live in Sheepshead Bay.

24 My occupation is salesman.

25 I have some college.

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1 I'm married. Two children, 11 and 14. Both
2 are students.

3 My wife is a counselor.

4 Number nine, no.

5 Number ten, I need reading glasses.

6 Number eleven, I have two niece that work in
7 law firm, corporate law.

8 Number twelve, my brother-in-law is retired
9 police.

10 Number thirteen, yes.

11 THE COURT: Can you tell us about that.

12 PROSPECTIVE JUROR: About twenty years ago, I
13 was robbed.

14 THE COURT: Did that happen in Brooklyn or
15 somewhere else?

16 PROSPECTIVE JUROR: It happened in Long
17 Island.

18 THE COURT: Anything about that experience
19 that might affect your ability to sit on this case and
20 judge the evidence in this case?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR: Number fourteen, no.

24 THE COURT: Thank you.

25 Again, jurors, I'm going to remind you that

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1 there are no right or wrong answers, only truthful
2 answers. Because, again, we need to know whether
3 there's anything that may interfere with your judgment
4 on this particular case.

5 Again, I will give the assistant district
6 attorney, Mr. Hale, an opportunity to ask you questions.

7 Again, jurors, there are no right or wrong
8 answers, only truthful answers.

9 MR. HALE: Thank you, your Honor.

10 Good morning, jurors. Did everybody hear the
11 questions that were put to the jurors yesterday by
12 myself and Mr. Simons? Did everybody hear those?

13 (AFFIRMATIVE RESPONSE FROM JURORS)

14 MR. HALE: You're going to be hearing much the
15 same thing.

16 Again, we want to hear your voice. You
17 started off very well today, actually.

18 One of the things the judge talks about, and I
19 emphasize also, and I think I want you to consider on
20 your own, in order for both sides here to get a fair
21 trial, your decision has to be free from sympathy. In
22 this case, there's a lot of obvious sympathy that can be
23 seen in this case.

24 You would agree with that, ma'am, would you
25 not?

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1 PROSPECTIVE JUROR: No.

2 MR. HALE: You wouldn't agree?

3 PROSPECTIVE JUROR: No.

4 MR. HALE: Well, there's a child that was
5 killed; three other people that were injured. The
6 defendant's on trial for murder.

7 Do you think that sympathy would enter into
8 your thinking at all?

9 PROSPECTIVE JUROR: No, because I did not hear
10 the case.

11 MR. HALE: Right. But you will hear the case.

12 PROSPECTIVE JUROR: Well, when that comes in,
13 I will see. But right now I can't see. Sympathy is not
14 anything to do with the case.

15 MR. HALE: You know, it's a wait-and-see sort
16 of thing. That's why we tell you a little bit about it.

17 Under those sort of circumstances, and you are
18 going to hear this sort of information, and I think
19 Mr. Simons had talked about some of the information as
20 things we don't necessarily want to hear but we have to,
21 about the examination of the child's body after death,
22 the treatment of the injuries of the other people. Some
23 of that may be disquieting and may cause certain
24 emotions.

25 My question is, even if you do feel something

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1 like that, can you put it aside beside the case in your
2 head?

3 PROSPECTIVE JUROR: Of course.

4 MR. HALE: Okay.

5 You understand why that is important, do you
6 not?

7 PROSPECTIVE JUROR: Yes.

8 MR. HALE: As is all sorts of other things. I
9 mean, you know, this case is not about your feelings
10 about maybe anger either for what happened in this case
11 or anything else that happened in your outside lives.
12 You've got to decide it rationally on what you hear in
13 here.

14 You can agree to do that and you would do
15 that?

16 PROSPECTIVE JUROR: Absolutely.

17 MR. HALE: Absolutely.

18 Any problem with that at all, sir?

19 PROSPECTIVE JUROR: No.

20 MR. HALE: When we're talking about those sort
21 of feelings, that's why we talk about the testimony of
22 various people. You know, you may have nothing in
23 common with the people who are testifying; they may not
24 even be people that you would ever care to associate
25 with. Some of them, as the Court said, are police

1 officers.

2 Do you think that you can look at somebody and
3 decide whether or not they're being truthful? I mean,
4 when you hear about them, whether you like them or not.

5 Do you think you would be able to do that?

6 PROSPECTIVE JUROR: To decide just by looking
7 at them?

8 MR. HALE: And listening to what they have to
9 say and everything. Listen, we go through life and we
10 associate with people and we sit there and we go, you
11 know, gee, what a great guy. Then other people, we say,
12 gee, what a blank. You know. But that doesn't mean
13 that the people who are that blank can't be truthful or
14 the people that are the nice guys can't be, you know,
15 making something up; right?.

16 PROSPECTIVE JUROR: Yes.

17 MR. HALE: Okay.

18 Again, can you listen to what they say and not
19 do it on impressions?

20 PROSPECTIVE JUROR: Yes.

21 MR. HALE: Okay.

22 And the same thing goes for everybody you're
23 going to see here in the courtroom.

24 Is there anybody here that thinks that they
25 can tell something about a person just by looking at

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1 them or watching their mannerisms?

2 PROSPECTIVE JUROR: Sometimes.

3 MR. HALE: Sometimes?

4 PROSPECTIVE JUROR: Can I ask a question?

5 MR. HALE: Yeah, you can ask a question, sure.

6 PROSPECTIVE JUROR: At the time of this scene,
7 how long did it take to arrest him?

8 MR. HALE: That's not something I can answer.

9 THE COURT: Let me say this, Mr. Richards. If
10 you're selected as a juror, you will hear all of the
11 evidence. Certainly, some of the questions that you may
12 be asking have no relevancy. You will determine whether
13 it, in fact, has any relevancy as to whether the People
14 prove their case beyond a reasonable doubt. Because, if
15 you're selected, you decide the facts. I can't tell you
16 what the facts are, the attorneys can't tell you what
17 the facts are. The evidence comes from the mouths of
18 the witnesses as you hear them, and you will decide
19 whether they're telling the truth, are mistaken, or
20 lying. That's going to be your sole and exclusive job,
21 and an important job, the most important job.

22 You may continue.

23 MR. HALE: Just to follow up on that a little
24 bit. I understand you give out a lot of information,
25 you want a lot of information in return.

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1 It really doesn't matter. Because the fact
2 that he was arrested, it isn't evidence of anything.
3 The police making an arrest doesn't say whether he did
4 the crime or he didn't do the crime. That's dependent
5 upon the evidence that you hear. But it's a good
6 question.

7 Sir, you've been on a jury before; right?

8 PROSPECTIVE JUROR: No.

9 MR. HALE: You've never been on a jury before?

10 PROSPECTIVE JUROR: I watch too much movie.

11 Go ahead.

12 MR. HALE: That's what I was talking about
13 yesterday. Everybody is looking at the movies and
14 stuff, and you get an idea about well, the police are
15 supposed to do this, or that assistant district attorney
16 should do that, and why is the judge saying that,
17 because they don't say that on TV.

18 Can you put all that stuff aside?

19 PROSPECTIVE JUROR: I can put all that aside.
20 But the question I'm asking, the crime commit now, they
21 hold him now or they hold him two, three days after?

22 MR. HALE: Wait and see.

23 PROSPECTIVE JUROR: That's why I ask the
24 question.

25 THE COURT: Okay. As I said, as to whether it

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1 has relevancy, you will decide it. Because, if you look
2 at television shows, you know it never takes this long
3 to select a jury. A jury is automatically in the jury
4 box. They never show you the process by which they get
5 there, and that's a slow and a tedious process.

6 PROSPECTIVE JUROR: Yes, ma'am.

7 MR. HALE: Do you have any problems with
8 anything we talked about so far, sir, in terms of you
9 being a fair and impartial juror? You know what I mean
10 by that, fair and impartial? Giving everybody a share
11 shake and starting from a level playing field.

12 You can do that?

13 PROSPECTIVE JUROR: Yes, I'm all right.

14 MR. HALE: All right.

15 Ma'am, do you have anything in your background
16 that would cause you to be anything less than a fair and
17 impartial juror?

18 PROSPECTIVE JUROR: Yes. A child's life was
19 lost.

20 MR. HALE: I'm sorry?

21 PROSPECTIVE JUROR: A child's life was lost.
22 I sympathize with that.

23 MR. HALE: That's the big thing here.
24 Frankly, we lost a lot of people yesterday. When the
25 judge said there was a four-year-old child that had

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1 died, there were a lot of people that couldn't be fair
2 about that sort of thing.

3 PROSPECTIVE JUROR: Because I have nieces and
4 nephews.

5 MR. HALE: People got kids, people got
6 grandkids, we were kids once.

7 The fact of the matter is on that, you know,
8 what it comes right down to is a human life is a human
9 life is a human life. There's laws about that. It's
10 not a question about whether a child died; that's a
11 given. It's just a question about whether he's
12 criminally responsible for that. Okay?

13 Do you think the fact that the child is a
14 victim would keep you from being fair and impartial in
15 this case?

16 PROSPECTIVE JUROR: Yes.

17 MR. HALE: Thank you for your honesty on that.

18 Is there anybody else that thinks that you got
19 a child victim here, among the victims, but the one that
20 died was a child, that would keep you from deciding this
21 case rationally, intellectually, and maybe make you less
22 than fair and impartial? Anybody at all?

23 (NO RESPONSE)

24 MR. HALE: Does anybody, from any personal
25 experience that you have had, think you would have any

1 sort of problem looking at police testimony in this
2 case?

3 Ma'am, let me ask you that.

4 PROSPECTIVE JUROR: Yeah. I've seen police
5 officers, the way the do it, especially looking at crime
6 scenes, like Law and Order, stuff like that. I've seen
7 stuff like that before. You can tell when they're
8 telling the truth or not.

9 MR. HALE: Let me ask you this. Is there
10 anything about that that you think well, all police
11 officers and then fill in the blank. Do you think that
12 there's something that you might, I don't know, maybe
13 prejudge a police officer even before you hear anything
14 that comes out of their mouth?

15 PROSPECTIVE JUROR: No, no.

16 MR. HALE: Listen, I can't pretend. There are
17 people that have had great experiences with police
18 officers, there are people that have lousy experiences
19 with police officers. We read stuff in the paper about
20 guys who perform as heroes, and we read stuff in the
21 papers about guys who are bums. I mean, it's going to
22 happen when you have any group of 30, 35,000 people who
23 are doing a job like that.

24 But is there anybody here who is going to sit
25 there and say well, because of those things, I don't

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1 think that I could be fair to a police officer? That
2 when I look at him, I think all police officers are and
3 then fill in the blank.

4 How do you feel about that?

5 PROSPECTIVE JUROR: Well, I wouldn't feel that
6 all police officers is like that, no.

7 THE COURT: There was a hand in the audience.

8 MR. HALE: I did not see.

9 Thank you.

10 Yes, sir?

11 We talked a little bit about that when you
12 said about your situation.

13 PROSPECTIVE JUROR: Yes. I really don't feel
14 comfortable around cops.

15 MR. HALE: That's fine. You would say your
16 discomfort of that would keep you from listening to what
17 they had to say and deciding whether you believe them or
18 not; right?

19 PROSPECTIVE JUROR: Yes, because the way I was
20 treated.

21 MR. HALE: Because the way you were treated.

22 Again, here's a gentlemen who's had a specific
23 life experience, and there's maybe those of you who have
24 had friends who told you about other life experiences.
25 It's very, very important at this point that we know

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1 whether you can look at this case with an open mind as
2 to the testimony of a police officer or any other
3 person.

4 Anybody at all have the same sort of problem
5 that this individual does from any personal experience
6 or anything that you've seen, anything you've heard
7 about?

8 (NO RESPONSE)

9 MR. HALE: Mr. Baez, you said that your job,
10 actually you have police officer status in your job;
11 right?

12 PROSPECTIVE JUROR: Peace officer status.

13 MR. HALE: Peace officer status. Okay.

14 You'll have to fill me in. I don't know
15 exactly what the details of what you do are. You're a
16 fire inspector; right?

17 PROSPECTIVE JUROR: Yes. I look for
18 violations in the fire code, especially pertaining to
19 sprinkler systems. I write out violations and I have to
20 represent the Fire Department in court regarding those
21 violations.

22 MR. HALE: Like summons court?

23 PROSPECTIVE JUROR: So far just Environmental
24 Control Board court.

25 MR. HALE: I guess then the question obviously

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1 is, along these same lines, since you are in I guess a
2 quasi law enforcement sort of situation, whether you
3 think you would favor one side or the other here, or
4 would you be able to keep an open mind?

5 PROSPECTIVE JUROR: I would be able to keep an
6 open mind.

7 MR. HALE: Okay.

8 Let me ask you, ma'am. You talked about your
9 experience with the truck and with the City Marshal.
10 Did you end up being -- I know you witnessed what you
11 saw, but did you end up actually being a witness? That
12 is, either testifying in the Grand Jury or in court?

13 PROSPECTIVE JUROR: No.

14 MR. HALE: Do you know what happened with that
15 guy's case at all?

16 PROSPECTIVE JUROR: No.

17 MR. HALE: That experience, you know, a lot of
18 people hear about crime, sometimes it affects our
19 families and we hear about it that way, but very few of
20 us actually are in a situation where we see something
21 going on like that.

22 Do you think that that experience would affect
23 you in this particular case?

24 PROSPECTIVE JUROR: No. Because the job that
25 I do, I deal with a lot of people on a daily basis. I

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1 go into people home, my job is to go into their home.
2 You know, I'm around a little bit of everybody.

3 MR. HALE: Since your job is to go into
4 people's homes and to talk to people, do you think that
5 you would have any difficulty at all in terms of
6 listening to these people and evaluating their
7 testimony?

8 PROSPECTIVE JUROR: No.

9 MR. HALE: I'm sure some of the people whose
10 homes you go into by comparison are people you've never
11 had anything in common with.

12 PROSPECTIVE JUROR: Right.

13 MR. HALE: Do you think you would have any
14 problem listening to this?

15 PROSPECTIVE JUROR: No, I wouldn't have a
16 problem.

17 MR. HALE: How about in terms of your fellow
18 jurors? I know that the group yesterday and the group
19 today might not necessarily you would think of them
20 being people who would the get together and talk, but do
21 you think you would have any problem with that?

22 PROSPECTIVE JUROR: No.

23 MR. HALE: Ma'am, how about you, any
24 difficulty with that one?

25 PROSPECTIVE JUROR: No.

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1 MR. HALE: Who has had previous jury
2 experience? You'll forgive me, because I'm up here and
3 my notes are over here.

4 You've previously had jury duty. How old ago
5 was that, ma'am?

6 PROSPECTIVE JUROR: About four or five years
7 ago.

8 MR. HALE: And that was a criminal case?

9 PROSPECTIVE JUROR: Yes.

10 MR. HALE: Okay. Don't tell me what the
11 verdict was, but what was the charge?

12 PROSPECTIVE JUROR: Murder.

13 MR. HALE: Murder.

14 And, again, don't tell me what the verdict
15 was, but did you reach a verdict?

16 PROSPECTIVE JUROR: Yes, we did.

17 MR. HALE: What did you think of that
18 experience, a positive experience or a negative
19 experience?

20 PROSPECTIVE JUROR: Well, at first it started
21 off negative, then positive.

22 MR. HALE: Is it the sort of thing that you
23 think you would be able to do?

24 PROSPECTIVE JUROR: Yes.

25 MR. HALE: Were you able to listen to -- You

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1 know, all these things, I'm talking to all these people
2 about these concepts sort of in the abstract, but you
3 actually had to do it.

4 PROSPECTIVE JUROR: Yes.

5 MR. HALE: Were you able to make your decision
6 based just on the evidence and the law in that case?

7 PROSPECTIVE JUROR: It took a little while,
8 but we did come to a decision.

9 MR. HALE: All right.

10 And you were satisfied with your performance
11 as a juror?

12 PROSPECTIVE JUROR: Yes, I was.

13 MR. HALE: And you followed the law, didn't
14 you?

15 PROSPECTIVE JUROR: Yes.

16 MR. HALE: Ma'am, you were also a juror?

17 PROSPECTIVE JUROR: Yes.

18 MR. HALE: How long ago was that?

19 PROSPECTIVE JUROR: Eight or nine years.

20 MR. HALE: In a criminal case?

21 PROSPECTIVE JUROR: In the Grand Jury.

22 MR. HALE: In the Grand Jury.

23 The Grand Jury is a little bit different,
24 because you're just finding probable cause in the Grand
25 Jury.

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1 Do you think that experience -- In that
2 experience you see most of the witnesses are police
3 officers, you see an assistant district attorney every
4 day, numbers of them. Do you think that that experience
5 would affect you at all in this case?

6 PROSPECTIVE JUROR: No.

7 MR. HALE: The thing I'm going to ask both of
8 you to do is to forget everything you've heard in those
9 other times. Can you forget everything you've heard in
10 those other cases or what you think the law may be from
11 those other situations, and listen to the judge as she
12 applies the law here? Can you do that?

13 PROSPECTIVE JUROR: Yes.

14 PROSPECTIVE JUROR: Yes.

15 MR. HALE: Can you keep that experience, you
16 know, shove it way back in the back and make your
17 decision just upon what you here in here?

18 PROSPECTIVE JUROR: Yes.

19 PROSPECTIVE JUROR: Yes.

20 MR. HALE: Folks, my time is running short.
21 Is there anything that any of you in searching your own
22 background, looking inside of yourself, that you want to
23 say to me, anything that you think would affect your
24 ability to be a fair and impartial juror on this very
25 important matter? Anybody think they would have any

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1 problem whatsoever from something we haven't talked
2 about?

3 Yes, ma'am.

4 PROSPECTIVE JUROR: You asked a question
5 yesterday about people's experience with mental health,
6 mental illness, mental deficiencies.

7 MR. HALE: It's something that may come about
8 in this case, there may be some issue having to do with
9 psychiatry and mental issues. There's a possibility
10 that you will hear from a psychiatric or psychological
11 professional for one side or the other.

12 So, is there anything about that that you
13 think would affect you?

14 PROSPECTIVE JUROR: Yes. I have personal
15 experience with a daughter who has a diagnosis of mental
16 illness.

17 MR. HALE: Okay.

18 My question is, because you know that, do you
19 think that that would give you any particularized
20 knowledge or a leg up on hearing -- Say somebody comes
21 in and they talk about a diagnosis of somebody. Are you
22 in a position where you could replace that person's
23 knowledge because you have some inside information?

24 PROSPECTIVE JUROR: I've done a lot of
25 reading.

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1 MR. HALE: Okay.

2 PROSPECTIVE JUROR: I've done a lot of reading
3 and a lot of research, and I have a lot of opinions
4 about it.

5 MR. HALE: Do you have any opinions about it
6 in the context, we call it a forensic context, in the
7 context of court work and its use in courts? Anything
8 about that at all?

9 PROSPECTIVE JUROR: Just with my own reading.
10 I have had no personal experience.

11 MR. HALE: Do you think you could be fair and
12 open-minded if you do hear health professionals talking
13 about mental illness or psychiatric issues and deciding
14 whether to credit the expert or not, or is your personal
15 experience going to keep you from being able to do that?

16 PROSPECTIVE JUROR: My personal experience may
17 keep me from making a decision on that.

18 MR. HALE: That brings up an interesting point
19 and, I forgot to ask it.

20 Again, it may come about that you may hear a
21 psychologist, a psychiatrist, it may come about in this
22 trial that you will have to make some sort of a decision
23 based upon psychiatric or psychological evidence.

24 Does anybody have any personal experience or
25 any personal opinion from something that you heard,

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1 something that you read, from research that you may have
2 done that would keep you from having an open mind
3 listening to that sort of testimony or considering those
4 sort of issues?

5 Anything about that at all, sir?

6 PROSPECTIVE JUROR: No.

7 MR. HALE: Ma'am, any problem with that at
8 all?

9 PROSPECTIVE JUROR: No.

10 MR. HALE: Ma'am, any problem with that at
11 all?

12 PROSPECTIVE JUROR: No.

13 MR. HALE: I think I said yesterday, it runs
14 the gamut. People have opinions about psychiatry and
15 psychology, whether it's something that is viable or
16 whether it's something that's not.

17 Again, do you have any such opinion that would
18 keep you from having an open mind?

19 PROSPECTIVE JUROR: No.

20 MR. HALE: Ma'am, how about you, any problem
21 with that at all?

22 PROSPECTIVE JUROR: No.

23 MR. HALE: Okay, folks, thank you very much.

24 Does anybody have anything else?

25 (NO RESPONSE)

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1 MR. HALE: You don't have any further
2 questions? You're sure?

3 PROSPECTIVE JUROR: Yes.

4 MR. HALE: Okay. Very good.

5 Thank you very much for your time.

6 THE COURT: Certainly, jurors, I'm going to
7 remind you that the defense has no obligation or burden
8 to do anything whatsoever, so certainly defense counsel
9 need not ask any questions.

10 That being said, Mr. Simons, do you wish to
11 inquire?

12 MR. SIMONS: Yes.

13 Good morning, ladies and gentlemen.

14 I don't have a lot of questions for you. Once
15 again, I apologize if I get your name wrong. I have a
16 chart, but I know I will get your names wrong.

17 If there's anything that you want to say to
18 me, any questions, please feel free to ask it.

19 Let me just start off with you, Mr. Richards.
20 I didn't hear all of it. You said you were 80 years
21 old?

22 PROSPECTIVE JUROR: Born 1928, 15th of March.

23 MR. SIMONS: Happy birthday.

24 PROSPECTIVE JUROR: Thank you very much.

25 MR. SIMONS: Let me go to Miss Hills.

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1 I ask you the question, similar to what I did
2 yesterday, this is kind of open to everybody: Have you
3 heard anything so far since you've been in here that
4 would help you decide this case at all?

5 PROSPECTIVE JUROR: No.

6 MR. SIMONS: Does everyone agree with that?

7 (AFFIRMATIVE RESPONSE FROM JURORS)

8 MR. SIMONS: Okay.

9 Miss Archer?

10 PROSPECTIVE JUROR: Yes.

11 MR. SIMONS: Now, you had mentioned that -- I
12 believe you said it was your husband's younger brother
13 who was killed, you said, about twelve years ago?

14 PROSPECTIVE JUROR: Yes.

15 MR. SIMONS: I missed it. You said it wasn't
16 in Brooklyn, it was someplace else?

17 PROSPECTIVE JUROR: Yes.

18 MR. SIMONS: I think you might have been asked
19 that. Do you remember, was anyone arrested?

20 PROSPECTIVE JUROR: Yes, someone was arrested.

21 MR. SIMONS: Was there a trial?

22 PROSPECTIVE JUROR: There was.

23 MR. SIMONS: Did you attend the trial at all?

24 PROSPECTIVE JUROR: No.

25 MR. SIMONS: But did you hear about it?

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1 PROSPECTIVE JUROR: I did, from my husband and
2 my mother-in-law.

3 MR. SIMONS: Now, do you feel anything you
4 might have heard--you don't have to tell us what you
5 heard--about the trial or what happened, do you think
6 that may affect you in any way in evaluating this case?

7 PROSPECTIVE JUROR: No.

8 MR. SIMONS: Let me go to Miss Holness?

9 PROSPECTIVE JUROR: Yes.

10 MR. SIMONS: Now, you mentioned at some point
11 you did serve in the Grand Jury; correct?

12 PROSPECTIVE JUROR: Yes.

13 MR. SIMONS: How long ago was that?

14 PROSPECTIVE JUROR: Eight, nine years ago.

15 MR. SIMONS: Would you be able to kind of
16 forget everything you've heard in the Grand Jury and
17 just follow the judge's instruction? It is different.

18 PROSPECTIVE JUROR: Yes.

19 MR. SIMONS: You won't have a problem with
20 that?

21 PROSPECTIVE JUROR: No.

22 MR. SIMONS: And you mentioned that the case
23 involving your son, I believe you said there was a
24 trial?

25 PROSPECTIVE JUROR: Yes.

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1 MR. SIMONS: Did you attend the trial?

2 PROSPECTIVE JUROR: Yes.

3 MR. SIMONS: Did you testify?

4 PROSPECTIVE JUROR: No.

5 MR. SIMONS: Do you think anything about the
6 trial, the way the defense attorney asked questions or
7 didn't ask questions, the way the prosecutor handled the
8 case, or the way the judge handled that case, do you
9 think that will affect you in any way in how you would
10 evaluate this case?

11 PROSPECTIVE JUROR: No.

12 MR. SIMONS: You would be able to forget
13 everything --

14 PROSPECTIVE JUROR: I would not forget
15 everything. I would never forget it.

16 MR. SIMONS: I mean, when you decide this
17 case, will you be able to forget how the judge acted,
18 how the defense attorney acted, and just evaluate this
19 case not on what happened with your son's trial but with
20 actually happens in this case?

21 PROSPECTIVE JUROR: Yes.

22 MR. SIMONS: I didn't want you to forget it.
23 Thank you.

24 Now, let me ask Miss Castle.

25 I believe you stated that at some point many

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1 years ago your ex-husband was involved in some domestic
2 violence?

3 PROSPECTIVE JUROR: Yes, I got a broken hand
4 over a stupid argument. He broke my hand.

5 MR. SIMONS: Was he arrested?

6 PROSPECTIVE JUROR: He was arrested.

7 MR. SIMONS: Was there a trial involved?

8 PROSPECTIVE JUROR: No, trial. He just went
9 to anger management.

10 MR. SIMONS: Were you satisfied the way the
11 case was handled?

12 PROSPECTIVE JUROR: Yes.

13 MR. SIMONS: Was that in Brooklyn?

14 PROSPECTIVE JUROR: In Brooklyn.

15 MR. SIMONS: Anything about that that will
16 affect you in any way in evaluating this case?

17 PROSPECTIVE JUROR: No.

18 MR. SIMONS: Let me ask Miss Lovisi. Now you
19 said that -- I believe you work in the Post Office.

20 PROSPECTIVE JUROR: Yes.

21 MR. SIMONS: And I believe your -- is it your
22 husband who works in the Post Office?

23 PROSPECTIVE JUROR: Yes.

24 MR. SIMONS: Now, it's possible, I'm not sure,
25 one of the witnesses may be a current employee with the

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1 Post Office or a former employee of the Post Office. I
2 guess the question is would you evaluate this person,
3 because they either used to work for the Post Office or
4 currently work for the Post Office --

5 PROSPECTIVE JUROR: No, a lot of people work
6 for the Post Office.

7 MR. SIMONS: -- differently than someone else?

8 PROSPECTIVE JUROR: No, not at all.

9 MR. SIMONS: So, that wouldn't be a problem.

10 PROSPECTIVE JUROR: No.

11 MR. SIMONS: Like I said, if I don't get to
12 everyone, I apologize.

13 Mr. Baez, you mentioned as part of your job
14 you have gone before a court and you've presented, I
15 guess, evidence regarding violations.

16 PROSPECTIVE JUROR: Let me try to describe it.
17 I basically sit before a judge in Environmental Control
18 Board court. It's just a small room. It's myself
19 basically giving testimony as to what I saw and wrote,
20 kind of backing it up, saying yes, this is indeed what I
21 saw, the violations. Then there's a Fire Department
22 representative who talks to the judge and the person.

23 MR. SIMONS: Do you get cross-examined by
24 lawyers?

25 PROSPECTIVE JUROR: Sometimes. Sometimes a

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1 lawyer will ask me a question like, "Are you sure you
2 were really there at that building?"

3 MR. SIMONS: Now, has anything happened as you
4 were working that you believed you --

5 Withdrawn.

6 Has anything happened to you that you believe
7 may affect on how you evaluate either the way I ask
8 questions of the witness, the way the witnesses react,
9 or anything in this trial?

10 PROSPECTIVE JUROR: No.

11 MR. SIMONS: Let me get to the other people
12 over here.

13 Miss Torres, I believe you had mentioned I
14 believe something about your son's friend was injured
15 and I believe you said you would have a problem with
16 that. Correct?

17 PROSPECTIVE JUROR: Yes.

18 MR. SIMONS: Would the problem be you would
19 have trouble evaluating this case fairly because of what
20 happened to your son's friend?

21 PROSPECTIVE JUROR: Yes.

22 MR. SIMONS: Okay.

23 Mr. Ooi, you had also mentioned that twenty
24 years ago, I believe, you were robbed?

25 PROSPECTIVE JUROR: Yes.

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1 MR. SIMONS: And something happened with that
2 which you believe will affect you in this case?

3 PROSPECTIVE JUROR: Yes.

4 MR. SIMONS: Whatever happened, do you believe
5 that will affect you in evaluating the evidence fairly
6 in this case?

7 PROSPECTIVE JUROR: Yes.

8 MR. SIMONS: Does anyone have any questions
9 for me?

10 (NO RESPONSE)

11 MR. SIMONS: Well, then, thank you very much.

12 THE COURT: Jurors, what's going to happen at
13 this time is myself and the attorneys will discuss who's
14 to be selected to sit on this jury panel.

15 Jurors, if you're not selected to sit on this
16 case, please don't take it as any indication or a
17 statement about your character or self-worth. It is
18 not.

19 Again, we have the highest responsibility to
20 choose as trial jurors those individuals who will be
21 fair and impartial and give both sides a fair trial,
22 which they're entitled to receive.

23 Again, jurors, I will instruct you please
24 don't discuss any aspect of this case amongst yourselves
25 or with anyone else, or permit anyone else to discuss it

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1 in your presence, because you haven't heard any evidence
2 and it would be unfair to speculate about what you may
3 hear during the course of this trial. Because to do so
4 would be to go in with a made up mind, and certainly
5 that is contrary to everything that I've told you.
6 Again, if you're selected as a juror, you have to have
7 an open mind and be willing to listen to all of the
8 evidence in this case.

9 That being said, certainly, jurors, what I'm
10 going to have you do is to follow the directions of the
11 Clerk, and you'll remain in the area that he will show
12 you to because there are other jurors outside and I do
13 not want you to get commingled with the other jurors.
14 That's very important.

15 So you'll follow the direction of the court
16 Clerk and he'll show you the area that you should wait.

17 Do not come back into the courtroom until
18 you're brought back in by one of the court officers.

19 (At this time, the panel of prospective jurors
20 left the courtroom)

21 THE COURT: Certainly, I'll give both sides an
22 opportunity to go over their notes.

23 When I asked to speak to counsel at sidebar,
24 that was in reference to prospective juror seventeen,
25 who originally came up to speak to the Court.

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1 Since that time, juror number nineteen was a
2 viable juror. But certainly jurors twenty through
3 twenty-three also was in the group of people who came up
4 and said that they could not serve because of time
5 constraints, and we previously agreed would be excused
6 for cause but not at the time that they were asking.

7 That being said, I'll give both sides an
8 opportunity to go over their notes.

9 (Pause in the proceedings)

10 THE COURT: Are both sides ready?

11 MR. SIMONS: Yes.

12 MR. HALE: Yes.

13 THE COURT: How many sworn jurors do we have,
14 Barry?

15 THE CLERK: Four.

16 THE COURT: People, any challenges for cause
17 as to prospective jurors one through eight?

18 MR. HALE: No.

19 THE COURT: Defense?

20 MR. SIMONS: No.

21 THE COURT: Any peremptory challenges, People,
22 as to prospective jurors one through eight?

23 MR. HALE: Yes.

24 Number six, Miss Ferreira.

25 THE COURT: Is that it?

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1 MR. HALE: Yes, that is it.

2 THE COURT: Any peremptory, Defense, as to the
3 remaining jurors, one through eight?

4 MR. SIMONS: Number one.

5 THE COURT: Is that it?

6 MR. SIMONS: No.

7 Number four, Miss Hills.

8 (Pause in the proceedings)

9 THE COURT: Is that it, Mr. Simons?

10 MR. SIMONS: And number seven, Miss Holness.

11 THE COURT: Is that it?

12 MR. SIMONS: That is it.

13 THE CLERK: Judge, I missed the People's
14 perempt.

15 MR. HALE: Number six.

16 THE CLERK: So Yvrote Duplan becomes juror
17 number five.

18 Robert Camp becomes juror number six.

19 Irma Archer becomes juror number seven.

20 Baynes Richards becomes juror number eight.

21 We have eight selected jurors. The People
22 have used four challenges; the defense has used eight.

23 THE COURT: Any challenges for cause as to
24 prospective jurors nine through twelve?

25 People?

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1 MR. HALE: Number nine.

2 MR. SIMONS: I have no objection.

3 THE COURT: Number nine will be excused for
4 cause, on consent.

5 Is that it for your cause challenge?

6 MR. HALE: That's it for cause up to juror
7 number twelve.

8 THE COURT: Any cause challenges as to the
9 remaining jurors, ten through twelve?

10 MR. SIMONS: No.

11 THE COURT: Any peremptory challenges, People,
12 as to jurors ten through twelve?

13 MR. HALE: Number eleven, Miss Wright.

14 That's it.

15 THE COURT: Any peremptory challenges as to
16 the remaining jurors, ten and twelve?

17 MR. SIMONS: Number ten.

18 THE COURT: Is that it?

19 MR. SIMONS: Yes, that's it.

20 THE CLERK: So Lucille Lovisi becomes juror
21 number nine.

22 The People have used five challenges; the
23 Defense has used nine.

24 THE COURT: Any challenges for cause as to
25 prospective jurors thirteen through fifteen?

1 People?

2 MR. HALE: Ms. Dalleo Locascio, seat thirteen.

3 Because of the psychiatric issue, she couldn't be fair.

4 MR. SIMONS: No objection.

5 THE COURT: Number thirteen will be excused
6 for cause, on consent.

7 MR. HALE: That's all for cause.

8 THE COURT: Any cause challenges as to
9 prospective jurors fourteen and fifteen?

10 Defense?

11 MR. SIMONS: No.

12 THE COURT: Any peremptory challenges, People,
13 as to fourteen and fifteen?

14 MR. HALE: Fourteen.

15 THE COURT: Any peremptory challenge as to the
16 remaining juror, Defense, number fifteen?

17 MR. SIMONS: Number fifteen.

18 THE CLERK: The People have used six
19 challenges; the Defense has used ten challenges.

20 THE COURT: Any challenges for cause as to
21 sixteen through eighteen?

22 Again, I would point out that number
23 seventeen, Miss Rosales, initially came up to speak to
24 us in regard to the fact that she could not devote the
25 time needed on this case. Originally, I indicated to

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1 both sides that I would excuse her but not at the time
2 that she was requesting, and she was told to have a seat
3 back in the audience.

4 MR. HALE: Yes, she would be a cause challenge
5 then.

6 MR. SIMONS: I have no objection.

7 THE COURT: So, number seventeen is excused
8 for cause, as previously noted by the parties, Counsel.

9 Any challenges for cause as to jurors sixteen
10 and eighteen?

11 People?

12 MR. HALE: No.

13 THE COURT: Cause challenges as to sixteen and
14 eighteen?

15 MR. SIMONS: No.

16 THE COURT: Any peremptory challenges, People,
17 as to sixteen and eighteen?

18 MR. HALE: Sixteen.

19 That's it.

20 THE COURT: Any peremptory challenges,
21 Defense, as to number eighteen?

22 MR. SIMONS: Yes.

23 THE CLERK: The People have used seven
24 challenges; the Defense has used eleven challenges.

25 We have nine selected jurors.

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1 THE COURT: Any challenges for cause as to
2 number nineteen, People?

3 MR. HALE: Yes. She had the thing with the
4 child who was shot and beaten with the hammer, she said
5 she couldn't be fair.

6 MR. SIMONS: No objection.

7 THE COURT: Number nineteen will be excused
8 for cause, on consent.

9 Also let me point out again that jurors
10 twenty, twenty-one, twenty-two and twenty-three were
11 jurors who indicated they could not serve because of
12 time constraints, and in addition some mentioned some
13 additional reasons why they could not serve. So, it's
14 on consent that the Court will excuse prospective jurors
15 twenty, twenty-one, twenty-two, and twenty-three.

16 Is that correct?

17 MR. SIMONS: Yes.

18 MR. HALE: As previously agreed, yes, your
19 Honor.

20 THE COURT: Again, what I will do with the
21 sworn jurors from this panel is to indicate to them that
22 they should return on Monday morning at 10 a.m.

23 MR. HALE: Your Honor, do you think it would
24 be possible after we do this just to have a very short
25 break before we bring in the next group?

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1 THE COURT: Absolutely.

2 MR. HALE: I appreciate it. Thank you.

3 COURT OFFICER: Do you want the panel, Judge?

4 THE COURT: Yes.

5 (Pause in the proceedings)

6 COURT OFFICER: Ready for the panel, Judge?

7 THE COURT: Both are sides ready?

8 MR. HALE: Yes.

9 MR. SIMONS: Yes.

10 COURT OFFICER: Panel entering.

11 (At this time, the panel of prospective jurors
12 entered the courtroom)

13 THE CLERK: Ladies and gentlemen, we have
14 selected five additional jurors. Please listen for your
15 name and answer here or present.

16 Yvrote Duplan.

17 PROSPECTIVE JUROR: Present.

18 THE CLERK: Thank you.

19 Robert Camp.

20 PROSPECTIVE JUROR: Present.

21 THE CLERK: Thank you.

22 Irma Archer.

23 PROSPECTIVE JUROR: Present.

24 THE CLERK: Thank you.

25 Baynes Richards.

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1 PROSPECTIVE JUROR: Here.

2 THE CLERK: Thank you.

3 Lucille Lovisi.

4 PROSPECTIVE JUROR: Here.

5 THE CLERK: Thank you.

6 If I called your name, remain seated. If I
7 have not called your name, go back downstairs to the
8 second floor, Central Jury, with the thanks of the
9 Court.

10 If I called your name, remain seated. If I
11 didn't, go down to Central Jury.

12 (At this time, the unselected panel of
13 prospective jurors left the courtroom)

14 THE CLERK: Will the five selected jurors
15 please rise and raise your right hand and answer the
16 following question:

17 Do you and each of you sincerely and solemnly
18 swear or affirm that you will try this case in a just
19 and impartial manner, to the best of your judgment, and
20 that you will render a verdict according to the law and
21 the evidence.

22 Please say I do.

23 (AFFIRMATIVE RESPONSE FROM JURORS)

24 THE CLERK: Thank you.

25 Be seated, please.

1 THE COURT: Again, jurors, you can see that
2 jury selection is a slow and a tedious process, but the
3 most important process.

4 You've been selected because it's been
5 determined that you will be fair and impartial and give
6 both sides a fair trial, which they're entitled to
7 receive.

8 Jurors, certainly at this point we have not
9 completed jury selection. However, rather than make you
10 sit through another round of jurors being selected, the
11 attorneys have been gracious enough to agree with the
12 Court that at this point you will be excused for the
13 rest of this day.

14 Now, for those of you who are working and you
15 have jobs, we will not be in session with this case on
16 tomorrow, which is Friday. So that if you're working,
17 you have to return to your places of employment on
18 Friday.

19 This case is scheduled to begin with testimony
20 on Monday morning at 10 a.m., and that's May 5th.

21 Let me say this, jurors, that certainly I'm
22 going to remind you that you may not visit the premises
23 or area where the offenses allegedly took place.

24 You may not discuss any aspect of this case
25 amongst yourselves or with anyone else, or permit anyone

1 else to discuss it in your presence.

2 I do not anticipate this case appearing in the
3 media, but as a precaution, I would have to mention that
4 you may not listen to any media accounts.

5 Also, jurors, when you return on Monday
6 morning, May 5th, at 10 a.m., you will go to the jury
7 room and the officer will show you the jury room that
8 you will report to on that date. So you will not come
9 into the courtroom, you will go directly there.

10 At this point, I'm going to excuse you.
11 You'll follow the direction of the officer, and he will
12 certainly be able to give you more information if you
13 need more information.

14 (At this time, the sworn jurors left the
15 courtroom)

16 THE COURT: At this time, we'll take a brief
17 recess.

18 Certainly, if Mr. Waiters has to use the rest
19 room, now will be a good time to do so.

20 * * * * *

21 (RECESS TAKEN)

22

23 THE CLERK: Case on trial, General Waiters.

24 All parties are present.

25 THE COURT: Any matters you want to put on the

1 record before we begin?

2 MR. HALE: I do, your Honor.

3 The Court had taken a break after we had
4 selected the last round of jurors, and then became
5 involved with a note from its deliberating jury.

6 During that time period, the new venire of the
7 supplemental panel, I don't know how many people it
8 is --

9 THE COURT: Fifty-five.

10 MR. HALE: -- were in the area outside the
11 courtroom toward the windows in the lobby area.

12 I had gone out of the courtroom and was
13 returning when I encountered a gentleman, whom I've
14 known for fifteen years, Terrence Jackson. I knew him
15 in conjunction with a case that didn't work out to his
16 satisfaction. Let's put it that way.

17 THE COURT: And it's unrelated to the matter
18 before the Court?

19 MR. HALE: Completely unrelated. Like I said,
20 it's fifteen years old.

21 Mr. Jackson has appeared in many courtrooms as
22 a court watcher. He has always appeared in my
23 courtrooms. Sometimes he's very cordial to me; on other
24 times he has an ax to grind.

25 Today, when I was approaching the courtroom,

1 he accosted me and started yelling at me concerning what
2 I was doing and whether I would be miscarrying justice
3 once again, and that my boss ought to resign.

4 I was trying to shush him up without being
5 obvious, but this is going on in full view of all the
6 members of the venire, where he was calling me by name.

7 Apparently, after I had entered the courtroom,
8 Terrence Jackson remained outside, and Assistant
9 District Attorney Howard Jackson, who has the
10 deliberating jury with the Court, who came in after I
11 did, observed Terrence Jackson still in that same area,
12 actually talking directly to people who were seated and
13 who are prospective jurors in our case about the
14 District Attorney's Office, identifying Howard Jackson
15 by name, having identified me by name.

16 My opinion, your Honor, since we haven't done
17 anything with these people at all, and because of the
18 Court's work with the other jury our morning is just
19 about shot here anyway, I would ask that the Court get
20 another venire panel to fill out this jury, if that is
21 possible.

22 I think that rather than going through it and
23 having to make inquiry of each and every one of these
24 individuals what they observed, and after the Court
25 introduces me and then have to say well, did you observe

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1 a confrontation between Mr. Hale and this other person?
2 What did you hear? What you did think? It might just
3 be more expedient to get a new group of individuals.

4 MR. SIMONS: Actually, your Honor, I have
5 really no opinion on this.

6 Just so the Court would know, I was in the
7 hallway, but I did not see the encounter because I was
8 hiding in Judge Lott's courtroom because I saw some of
9 our regular jurors by the elevator and I did not want to
10 stand out in the hall. But I did hear someone ranting
11 at some point in the hallway. But, by the time I came
12 out, it was over.

13 Whatever the Court wants to do, it's not a
14 problem with the defense.

15 MR. HALE: I understand that Terrence Jackson
16 has been escorted off the floor.

17 Is that correct?

18 THE SERGEANT: That's correct.

19 MR. HALE: And won't cause us any more
20 problems.

21 As I said, he has good days and bad days, but
22 today was a bad day.

23 THE COURT: Let me say this. In order to err
24 on the side of caution, certainly we can inquire whether
25 there are any additional jurors. I can tell you now

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1 that there are no fresh jurors on Friday. So, we would
2 be working with whatever they have. If not, we have to
3 do it on Monday. That may be the other alternative.
4 We'll see what we can do.

5 * * * * *

6 (RECESS TAKEN)

7
8 THE CLERK: Case on trial continued.

9 COURT OFFICER: Ready for the panel, Judge?

10 THE COURT: Both are sides ready?

11 MR. HALE: Yes.

12 MR. SIMONS: Yes.

13 COURT OFFICER: Panel entering.

14 (At this time, the panel of prospective jurors
15 entered the courtroom)

16 THE CLERK: Will the jurors please rise and
17 raise your right hand and answer the following question:

18 Do you and each of you sincerely and solemnly
19 swear or affirm that you will answer truthfully all
20 questions asked of you relating to your qualifications
21 to serve as a juror in this action?

22 Please say I do.

23 (AFFIRMATIVE RESPONSE FROM JURORS)

24 THE CLERK: Thank you.

25 Be seated, please.

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1 THE COURT: Good afternoon, jurors.

2 My name is Judge Deborah Dowling, and I will
3 be the judge presiding at this trial.

4 I know that it's a little bit over the
5 luncheon recess, so I'm not going to keep you. I just
6 didn't want you to be out in the hallway and not be
7 brought in and have the opportunity for me to introduce
8 myself.

9 Certainly, I'm just going to briefly introduce
10 the parties at this time. After we return from lunch, I
11 will give you a further formal introduction.

12 Certainly, we have an assistant district
13 attorney here, Mr. Mark Hale.

14 MR. HALE: Thank you, Judge.

15 Good afternoon, ladies and gentlemen.

16 THE COURT: And we have defense counsel,
17 Mr. Calvin Simons.

18 MR. SIMONS: Good afternoon.

19 THE COURT: And we have the defendant here,
20 Mr. General Waiters.

21 THE DEFENDANT: Good afternoon.

22 THE COURT: I introduce them, jurors, because
23 of the fact if you see them over the luncheon recess,
24 please don't stop them, don't ask them when do we get
25 started, when can I leave, or anything else. They will

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1 not answer your questions; they will not speak to you.
2 So it's important that you do not try to speak to them.

3 At this time, jurors, I'll permit you to take
4 your luncheon recess, and you'll return at -- Well,
5 since it's after one, I want to be fair. You'll return
6 at 2:15.

7 Please be here on time so we can get started
8 on time.

9 Do not come back into the courtroom until the
10 court officer has come out to bring you into the
11 courtroom.

12 You'll enjoy juror lunch, and I'll see you at
13 2:15.

14 This is courtroom 20.21.

15 THE CLERK: Judge, this is the last juror.

16 Sir, I'll have to swear you in like I sworn in
17 the entire panel.

18 Raise your right hand, sir.

19 Do you solemnly swear or affirm that you will
20 answer truthfully all questions asked of you relating to
21 you as qualifications to serve as a juror in this
22 action?

23 PROSPECTIVE JUROR: I do.

24 THE COURT: Sir, you have to return back at
25 2:15.

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1 You'll come directly to this part, which is
2 courtroom 20.21. Remain outside until you're brought
3 back in by one of the court officers.

4 Enjoy your lunch, sir.

5 PROSPECTIVE JUROR: Thank you.

6 (At this time, the prospective juror left the
7 courtroom)

8 THE COURT: I'll see the parties at 2:15.

9 * * * *

10 (At this time, a luncheon recess was taken,
11 and the trial adjourned to 2:15 p.m.)

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A F T E R N O O N S E S S I O N

THE CLERK: Case on trial, General Waiters.

All parties are present.

COURT OFFICER: Ready for the panel, Judge?

THE COURT: Both sides are ready?

MR. HALE: Yes.

MR. SIMONS: Yes.

COURT OFFICER: Panel entering.

(At this time, the panel of prospective jurors entered the courtroom)

THE COURT: Good afternoon, jurors.

Jurors, I really owe you an apology because of the fact that I'm certainly on trial and the jury requested readback. So, I had to make sure they got the testimony that they wanted to have read back to them.

So, what did that was, it pushed back everything and it caused the Court to keep you waiting. I tell you that because I don't want you to think that somehow the Court or the attorneys or the parties here were just ignoring you. That is far from the case.

Certainly, as I said, I apologize for the inconvenience. You're going to be even more inconvenienced because as of now you must return tomorrow at 9:30.

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1 At that time, jurors, I will, in fact, tell
2 you what the case is about and further question you to
3 see if, in fact, you are the kind of juror qualified to
4 sit on this particular case.

5 So, again, I apologize. But you must return
6 tomorrow morning at 9:30. You'll come directly back to
7 this part.

8 At 9:30, we should be prepared, as I said, for
9 me to tell you what the case is about and then to begin
10 the process of questioning you. Because it is a process
11 that is important, it is a tedious process, but the most
12 important. Because we must find jurors who will be fair
13 and impartial to give both sides a fair trial.

14 So, again, I thank you for your patience. I'm
15 going to ask that you leave now.

16 Have a good evening, and I'll see you tomorrow
17 at 9:30.

18 (At this time, the panel of prospective jurors
19 left the courtroom)

20 THE COURT: I'll see the parties tomorrow at
21 9:30.

22 * * * * *

23 (At this time, court stands in recess, and the
24 trial adjourned to Friday, May 2, 2008, at 9:30 a.m.)

25

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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS : CRIMINAL TERM : PART 1

- - - - -X

THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT NO.
3464/06

- against - :

GENERAL WAITERS :

DEFENDANT : JURY VOIR DIRE

- - - - -X

320 JAY STREET
BROOKLYN, NEW YORK 11201

MAY 2, 2008

BEFORE: HONORABLE DEBORAH A. DOWLING, JUSTICE

APPEARANCES:

CHARLES J. HYNES, ESQ.
District Attorney, Kings County
BY: MARK HALE, ESQ.
Assistant District Attorney

CALVIN J. SIMONS, ESQ.
Attorney for Defendant
616 Eastern Parkway
Brooklyn, New York

VINCENT M. GERALDI, JR.
SENIOR COURT REPORTER

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1 THE CLERK: This is the case on trial,
2 Indictment 3464 of '06, General Waiters.

3 All parties are present.

4 THE COURT: Any matters to go on the record
5 before the prospective jury panel is brought in?

6 MR. SIMONS: No.

7 MR. HALE: Not for me, your Honor. No, thank
8 you.

9 THE COURT: Just to remind both sides, you
10 have twenty minutes for the first round. Any questions
11 you wish to ask, certainly, that's the time.

12 Let's get the panel in, please.

13 (Pause in the proceedings)

14 COURT OFFICER: Ready for the jury, Judge?

15 THE COURT: Both sides are ready?

16 MR. HALE: Yes.

17 MR. SIMONS: Yes.

18 COURT OFFICER: Panel entering.

19 (At this time, the panel of prospective jurors
20 entered the courtroom)

21 THE COURT: Good morning, ladies and
22 gentlemen.

23 Again, I'm going to reintroduce myself. My
24 name is Judge Deborah Dowling, and I will be the judge
25 presiding at this trial.

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1 Now, the People are represented by the
2 District Attorney of this county, Mr. Charles Hynes.
3 Seated to my left is assistant district attorney
4 Mr. Mark Hale.

5 MR. HALE: Thank you, your Honor.

6 Good morning, ladies and gentlemen.

7 THE COURT: He will be presenting evidence to
8 you in this case.

9 Seated to my right is defense counsel,
10 Mr. Calvin Simons.

11 MR. SIMONS: Good morning.

12 THE COURT: And he represents the defendant in
13 this case, who is seated next to him, Mr. General
14 Waiters.

15 THE DEFENDANT: Good morning.

16 THE COURT: The case on trial is the People of
17 the State of New York against General Waiters.

18 The defendant stands accused by way of an
19 indictment. The indictment accuses the defendant of the
20 following:

21 First count: The Grand Jury of the County of
22 Kings, by this indictment, accuses the defendant of the
23 crime of Murder in the Second Degree, Penal Law Section
24 125.25(1), committed as follows:

25 The defendant, on or about May 7, 2006, in the

1 County of Kings, with intent to cause the death of
2 Lorenzo Warren, caused the death of Tajmere Clark, by
3 shooting her with a deadly weapon, namely: a revolver,
4 thereby inflicting various wounds and injuries upon
5 Tajmere Clark, and thereafter and on or about May 7,
6 2006, Tajmere Clark died of the wounds and injuries.

7 Second count: The Grand Jury of the County of
8 Kings, by this indictment, accuses the defendant of the
9 crime of Attempted Murder in the Second Degree, Penal
10 Law Section 110/125.25 (1), committed as follows:

11 The defendant, on or about May 7, 2006, in the
12 County of Kings, with intent to cause the death of
13 Lorenzo Warren, attempted to cause the death of Lorenzo
14 Warren by means of a deadly weapon, namely: a revolver.

15 Third count: The Grand Jury of the County of
16 Kings, by this indictment, accuses the defendant of the
17 crime of Assault in the First Degree, Penal Law Section
18 120.10(1), committed as follows:

19 The defendant, on or about May 7, 2006, in the
20 County of Kings, with intent to cause serious physical
21 injury to Lorenzo Warren, caused such injury to Lorenzo
22 Warren by means of a deadly weapon, namely: a revolver.

23 The subject matter of this count being an
24 armed felony, as defined in Section 1.20 of the Criminal
25 Procedure Law.

1 Fourth count: The Grand Jury of the County of
2 Kings, by this indictment, accuses the defendant of the
3 crime of Assault in the First Degree, Penal Law Section
4 120.10(1), committed as follows:

5 The defendant, on or about May 7, 2006, in the
6 County of Kings, with intent to cause serious physical
7 injury to Lorenzo Warren, caused such injury to Mary Lee
8 Clark, by means of a deadly weapon, namely: a revolver.

9 The subject matter of this count being and
10 armed felony, as that term is defined in Section 1.20 of
11 the Criminal Procedure Law.

12 Fifth count: The Grand Jury of the County of
13 Kings, by this indictment, accuses the defendant of the
14 crime of Assault in the First Degree, Penal law Section
15 120.10(1), committed as follows:

16 The defendant, or about May 7, 2006, in the
17 County of Kings, with intent to cause serious physical
18 injury to Lorenzo Warren, caused such injury to
19 Shatashia Lewis, by means of a deadly weapon, namely: a
20 revolver.

21 The subject matter of this count being an
22 armed felony, as that term is defined in Section 1.20 of
23 the Criminal Procedure Law.

24 The sixth count: The Grand Jury of the County
25 of Kings, by this indictment, accuses the defendant of

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1 the crime of Criminal Possession of a Weapon in the
2 Second Degree, Penal Law Section 265.03(2), committed as
3 follows:

4 The defendant, on or about May 7, 2006, in the
5 County of Kings, knowingly and unlawfully possessed a
6 loaded firearm, namely: a revolver, with intent to use
7 the same unlawfully against another.

8 The subject matter of this count being an
9 armed felony, as that term is defined in section 1.20 of
10 the Criminal Procedure Law.

11 The seventh count: The Grand Jury of the
12 County of Kings, by this indictment, accuses the
13 defendant of the crime of Criminal Possession of a
14 Weapon in the Fourth Degree, Penal Law Section
15 265.01(1), committed as follows:

16 The defendant, on or about May 7, 2006, in the
17 County of Kings, knowingly and unlawfully possessed a
18 firearm, namely: a revolver.

19 Now, the incident is alleged to have occurred
20 on May 7, 2006, at approximately 11:30 a.m., inside of
21 340 Williams Avenue, apartment 4-I, in the County of
22 Kings, in Brooklyn.

23 Does anyone know anything about this case?

24 If so, I would ask that you raise your hand.

25 (NO HAND RAISED)

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1 THE COURT: Jurors, this matter appeared in
2 the news media. So, again, as I said, if anyone knows
3 anything about this case, I would ask that they raise
4 their hand.

5 (NO HAND RAISED)

6 THE COURT: I don't see any hands.

7 Do any of you know the attorneys I introduced,
8 Mr. Hale, Mr. Simons, or the defendant, Mr. Waiters, or
9 myself?

10 Jurors, the reason why I'm asking you if you
11 know any of the parties in this case is because it would
12 be inappropriate for you to sit as a juror on this
13 particular case if you know any of the parties.

14 Now, jurors, you may hear the following names
15 during the course of this trial or the people may be
16 called as witnesses in this case.

17 I caution you that certainly I'm only
18 mentioning the names to determine whether you're
19 familiar with them or if you know the individuals' names
20 that I'm calling.

21 I caution you that just because I mention the
22 name it poses no burden on either side to call that
23 person as a witness. I only mention them to determine
24 whether or not you recognize any of the names. Because
25 again, jurors, it would be inappropriate for you to sit

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1 as a juror on this particular case if you know any of
2 the witnesses or are familiar with any of the names.

3 Tajmere Clark.

4 Mary Lee Clark.

5 Lorenzo Warren.

6 Shatashia Lewis.

7 Jacqueline Warren.

8 Derrick Warren.

9 Koneisha Clark.

10 Sergeant Timothy Corleto.

11 Police Officer Jolene Anderson.

12 Police Officer David Cononico.

13 Detective Jose Castellano.

14 Detective John Bruton.

15 Detective Michael Pacchione.

16 Detective Richard Amato.

17 Detective George Boston.

18 Detective Edward Dingman.

19 Doctor Michelle Slone.

20 Doctor Alexander Barday.

21 Detective James Valenti.

22 Doctor Sanford Drob.

23 Does anyone recognize any of those names or
24 are familiar with any one of those names?

25 If so, I would ask that you raise your hand.

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1 (NO HAND RAISED)

2 THE COURT: Again, I don't see any hands.

3 Now, jurors, if you do not recognize a
4 witness' name but later you recognize a witness when he
5 or she takes the witness stand, you must bring it to the
6 Court's attention immediately.

7 Now, jurors, the first step in the trial of a
8 criminal case is to select a jury. A jury that will be
9 free of any preconceived notions and prejudices, and
10 that will be fair to the defendant in this case and also
11 fair to the People.

12 Now, as prospective jurors, we will be asking
13 you a series of questions, and the purpose of the
14 questions that we will be asking you is to determine
15 whether or not if you're selected to serve as a juror on
16 this particular case, whether you can do so fairly and
17 impartially.

18 Now, the procedure of questioning prospective
19 jurors, for your information, is known as voir dire.
20 Voir dire refers to the procedure by which each juror
21 takes an oath to speak the truth, to speak the truth in
22 answers to questions that will be put to you.

23 Now, jurors, the questions are designed to
24 ascertain your ability to serve as fair and impartial
25 trial jurors on this case. I can tell you now that the

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1 questions are not intended to pry into your private
2 lives, although sometimes, due to the very nature of the
3 kinds of questions that we will be asking you, it may
4 appear that way to you.

5 But I can tell you now, jurors, that both this
6 Court, as well as the attorneys in this case, have the
7 highest responsibility to choose as trial jurors those
8 individuals who will be fair and impartial, and give
9 both sides a fair trial.

10 Jurors, you will also appreciate the fact that
11 in many instances the questions will be designed to
12 alert you to your functions and your responsibilities,
13 and therefore, jurors, you will be able to make your own
14 evaluation and your own determination that if you are
15 selected to serve as a juror on this particular case,
16 whether you can do so fairly and impartially.

17 Now, if you are selected to serve as a juror
18 on this case, it will be your responsibility to
19 determine what happened in this particular case.

20 Now, jurors, you may be asking yourselves well
21 how can you determine what happened in this particular
22 case since you were not there on May 7, 2006.

23 Now, jurors, the law provides that you are the
24 sole and exclusive judges of the facts, Jurors, you
25 will have to make a determination of what the facts are

1 in this case, based upon the evidence that will be
2 presented to you in this case.

3 Jurors, I can tell you now that the source of
4 the evidence that you will hear, the primary source of
5 the evidence that you will hear will come from the
6 witnesses who will come into this courtroom, take the
7 witness stand, testify under oath orally on direct
8 examination and perhaps cross-examination, and redirect
9 and recross-examination, if any.

10 Jurors, in order for you to determine what the
11 facts are in this case, you must evaluate the evidence
12 that you hear.

13 "Evaluate" is the first most important word to
14 a juror. Certainly, evaluate means that you must go
15 behind the witness' oath and determine the credibility
16 of the testimony that you hear. That is, whether a
17 witness is telling the truth, is lying, or is mistaken.

18 Jurors, you will also have to determine the
19 reliability of the testimony that you hear. That is,
20 whether that testimony is probable or improbable in
21 light of the other evidence that you accept as proven.

22 Now, as jurors, you would have the right to
23 accept or reject the testimony of any witness, either in
24 whole or in part.

25 Jurors, after you have heard all of the

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1 evidence in this case, and after I have instructed you
2 as to the law that will be applicable in this particular
3 case, you will then retire to the jury room to
4 deliberate.

5 "Deliberate" is the second most important word
6 to a juror. Certainly a jury is composed of twelve
7 differ people, and in deliberations there will be
8 pressure to convince you of another position. Now, it
9 is the duty of each juror to give their own individual
10 views and also to listen to the arguments of the other
11 jurors and to weigh their arguments. But then each
12 juror must vote according to that juror's own
13 conscience.

14 The fact that this action is brought in the
15 name of the People of the State of New York or that
16 evidence will be presented to you by a public official
17 in no way indicates that the public wants a specific
18 verdict in this case. Certainly, the People of the
19 County of Kings are served by whatever verdict is
20 justified by the law and the evidence in this case.

21 Now, this trial involves Murder in the Second
22 Degree, Attempted Murder in the Second Degree, Assault
23 in the First Degree--three counts, Criminal Possession
24 of a Weapon in the Second Degree, and Criminal
25 Possession of a Weapon in the Fourth Degree.

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1 There may be some concern by jurors, this is
2 not a death penalty case. So, there's no concern or
3 should be no concern as far as that is concerned.

4 Also, jurors, let me say this, that the person
5 that was killed in this particular case is a young
6 child.

7 Based upon the nature of that accusation, is
8 there anyone who believes that they would be unable to
9 serve on this case as a result of that?

10 If so, I would ask that you raise your hand.

11 (HANDS RAISED)

12 THE COURT: I see a few hands.

13 You can put your hands down.

14 Let me say this, jurors, that certainly I'm
15 not in a position to excuse anyone from jury duty.
16 There may be some individuals who cannot serve because
17 of the nature of that accusation, and I understand that.
18 But I would ask that you be open and honest in your
19 reasons as to why you cannot serve. I understand that
20 jury duty interferes with your everyday lives, and
21 certainly you have other things that you would prefer to
22 be doing. That I understand.

23 But, again, our judicial system, whether on
24 the civil side or the criminal side, cannot operate
25 without citizens, such as yourself, who stand ready,

1 willing and able to serve.

2 Certainly, other than military service and
3 exercising your right to vote, it is one of the most
4 important civic duties that you have.

5 However, I do understand that sometimes
6 because of the nature of an accusation some people feel
7 they cannot serve on a particular case. But, again, I'm
8 going to ask that you look within yourself and be open
9 and honest in your reasoning as to why you cannot serve.

10 Let me just see the hands of the individuals
11 that indicated that.

12 What I will do, we'll start with this first
13 section, and I'll speak to everyone who indicated that
14 they cannot serve based on the nature of the
15 accusations. Then we will go to the second section.

16 I'm going to ask that you follow the direction
17 of the officers, because we want to do it in an orderly
18 fashion.

19 Again, as I said, I will speak to everyone,
20 but I want to do it in an orderly fashion.

21 That being said, certainly I'll see counsel
22 with the reporter.

23 (The following occurred at sidebar out of the
24 hearing of the panel of prospective jurors:)

25 (At this time, a prospective juror approached

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1 at sidebar)

2 THE COURT: Good morning.

3 May I have your card, please.

4 Your name, please?

5 PROSPECTIVE JUROR: James J. Creighton.

6 THE COURT: Mr. Creighton, based on the nature
7 of the accusations, being that the victim was a young
8 child, you indicated that you didn't believe you would
9 be able to serve based upon that.

10 Is that correct, sir?

11 PROSPECTIVE JUROR: That's correct.

12 THE COURT: Why is that, sir?

13 PROSPECTIVE JUROR: Because he wouldn't have a
14 chance with me, because I think it's disgusting. I have
15 a stepdaughter and several nieces, and I would not be
16 able to look at that man as innocent.

17 THE COURT: Even though you have not heard any
18 evidence or anything up to now?

19 PROSPECTIVE JUROR: It wouldn't matter to me.

20 THE COURT: Okay.

21 Any questions?

22 MR. HALE: No.

23 MR. SIMONS: No.

24 THE COURT: I can't excuse you from jury duty.
25 Sir, you'll wait outside until you get further

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1 instruction.

2 (PROSPECTIVE JUROR EXCUSED)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Good morning.

6 May I have your card, please.

7 Your name, please?

8 PROSPECTIVE JUROR: Elizabeth Day.

9 THE COURT: Miss Day, you indicated that based
10 upon the nature of this case that would prevent you from
11 serving in this particular case?

12 PROSPECTIVE JUROR: There's two pieces. One
13 is I got a two-year-old. Just the idea of a murder of a
14 young child, it's very painful to think about.

15 The other piece is I'm feeling I have a
16 preconceived notion in a case like this where there were
17 so many people who were involved, and it's people who
18 knew each other. I feel when there's this many people
19 involved, I have this preconceived notion that it's just
20 like technicalities and everybody sort of knows the guy
21 did it.

22 THE COURT: Even though you haven't heard
23 anything?

24 PROSPECTIVE JUROR: Even though I haven't
25 heard anything.

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1 THE COURT: Any questions?

2 MR. SIMONS: No questions.

3 MR. HALE: No.

4 THE COURT: Ma'am, I can't excuse you. Just
5 have a seat outside the courtroom.

6 (PROSPECTIVE JUROR EXCUSED)

7 (At this time, a prospective juror approached
8 at sidebar)

9 THE COURT: Good morning.

10 May I have your card, please.

11 Your name, please?

12 PROSPECTIVE JUROR: Liliya Neboga.

13 THE COURT: Ma'am, I asked whether there was
14 anything about the nature of the accusations in this
15 particular case, that it involved a young child, whether
16 that would affect your ability to sit on this case and
17 be fair.

18 PROSPECTIVE JUROR: I work in a hospital, I
19 work with people over a hundred years old. One of the
20 reason -- I don't know, the child. I felt like -- You
21 know, I just can't do it. I'm sorry.

22 THE COURT: Well, let me ask you this, and I
23 have to ask the tough question. I understand that you
24 said you work with older patients; is that correct?

25 PROSPECTIVE JUROR: Yes.

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1 I know the pediatric department.

2 THE COURT: You don't think you can hold that
3 in abeyance?

4 PROSPECTIVE JUROR: I don't think so, no.

5 THE COURT: Any questions?

6 MR. SIMONS: No.

7 MR. HALE: No.

8 THE COURT: I can't excuse you from jury duty.
9 The only thing is, you'll have to wait outside for
10 further instructions.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar).

14 THE COURT: Good morning.

15 May I have your card, please.

16 Your name, please?

17 PROSPECTIVE JUROR: Evanthia Tastsidis.

18 THE COURT: Ma'am, I asked whether there was
19 anything about the nature of the accusations or in this
20 particular case that it involved a young child, whether
21 that would affect your ability to sit on this case and
22 be fair.

23 PROSPECTIVE JUROR: Yes, it would. I brought
24 up two young kids. I know if anything happens to them,
25 I'm very disappointed. Even if you will commit a crime.

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1 That's why against kids I have very strong views about
2 that.

3 THE COURT: Let me ask you this. I don't know
4 whether you can do it, you have to let me know.

5 I know you said you have strong emotions and
6 you also have strong feelings with anything that deals
7 with children. Would you be able to -- not put it out
8 of your mind, but hold that kind of like aside and deal
9 with the evidence as it comes in in this particular case
10 and then make up your mind based upon what you hear or
11 you don't hear coming from that witness stand? I know
12 that's a tough question.

13 PROSPECTIVE JUROR: It's going to be hard.
14 Like I said, it depends on my mind, about the kid,
15 thinking of my own kids.

16 THE COURT: Will you allow that to influence
17 your judgment on this case?

18 PROSPECTIVE JUROR: I really -- I don't know.
19 I would be a little bit confused.

20 THE COURT: Let me say this. If you hear
21 something that strikes you or reminds you of your own
22 children --

23 PROSPECTIVE JUROR: It would affect me.

24 THE COURT: Okay.

25 Any questions?

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1 MR. HALE: No.

2 MR. SIMONS: No.

3 THE COURT: Okay, ma'am, you have to wait
4 outside for further instructions.

5 (PROSPECTIVE JUROR EXCUSED)

6 (At this time, a prospective juror approached
7 at sidebar)

8 THE COURT: Good morning.

9 May I have your card, please.

10 Your name, please?

11 PROSPECTIVE JUROR: Lois Anshus.

12 THE COURT: Ma'am, you said it would be a
13 hardship or you would be unable to serve on this case
14 based on the nature of the accusations in this case?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Why is that, ma'am?

17 PROSPECTIVE JUROR: I have a child myself and
18 I immediately reacted. I don't know if it's valid or
19 not, but I immediately reacted. I don't know, it really
20 disturbs me and bothers me. I don't know if I would be
21 fair.

22 THE COURT: Well, let me ask you this. I have
23 to ask the tough questions, and you have to let me know.
24 The fact that you have a child, whether you can put it
25 out of your mind, not forget about it, but certainly not

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1 allow it to affect how you evaluate the evidence in this
2 particular case and just make your determination based
3 on the evidence or the lack of evidence and call it
4 straight up and down as you see it on the evidence in
5 this particular case?

6 PROSPECTIVE JUROR: I don't know. That's
7 why -- I don't know if I'm able to remove myself.

8 THE COURT: Any questions?

9 MR. HALE: No.

10 MR. SIMONS: No.

11 THE COURT: At this point, I can't excuse you
12 from jury duty. You'll have to wait outside for further
13 instructions.

14 PROSPECTIVE JUROR: That's fine.

15 Thank you.

16 (PROSPECTIVE JUROR EXCUSED)

17 (At this time, a prospective juror approached
18 at sidebar)

19 THE COURT: Good morning.

20 May I have your card, please.

21 Your name, please?

22 PROSPECTIVE JUROR: Manik Hinchey.

23 THE COURT: Mr. Hinchey, you said it would be
24 difficult for you to serve on this case if it involved a
25 child?

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1 PROSPECTIVE JUROR: Yes. I have a
2 six-month-old baby. I'm not sure I can be objective in
3 the case with a child being killed, and particularly
4 hearing about a gunshot wound or something like that. I
5 don't know how I could be objective.

6 THE COURT: Well, let me ask you, and this is
7 a tough question, you have to let me know whether you
8 can do it.

9 Let me ask you, I know we all have emotions.
10 If we didn't, we would be robots. Can you hold those
11 emotions in abeyance?

12 PROSPECTIVE JUROR: I don't know. I don't
13 know I would be able to do that. I would try if I was
14 on the jury, but I don't know.

15 THE COURT: Let me say this. If you hear
16 something that reminds you of your child, my concern
17 would be you would be influenced how you feel about your
18 child and impose this on the evidence in this particular
19 case.

20 PROSPECTIVE JUROR: I think just reading books
21 where things happen to children, it's very difficult for
22 me. I don't know whether actually seeing a real child
23 have something happen to a child, it would be very
24 difficult. I can't help but think of my own child.

25 THE COURT: Any questions?

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1 MR. SIMONS: No.

2 MR. HALE: No.

3 THE COURT: Okay, ma'am. I can't excuse you
4 from jury duty. You'll remain outside the courtroom and
5 they'll give you further instructions.

6 (PROSPECTIVE JUROR EXCUSED)

7 (At this time, a prospective juror approached
8 at sidebar)

9 THE COURT: Good morning.

10 May I have your card, please.

11 Your name, please?

12 PROSPECTIVE JUROR: Inna Beytelman.

13 THE COURT: Miss Beytelman, you indicated that
14 it would be a hardship if you had to serve on this case
15 based on the nature of the accusations in this case?

16 PROSPECTIVE JUROR: Very hard for me, yes,
17 because I have very young children. I'm a very
18 emotional person. When you started, my heart was
19 pumping up. I can't deal with it. I work with kids.
20 Everything to kids and to me.

21 THE COURT: So you don't think you would be
22 able to set that aside?

23 PROSPECTIVE JUROR: I don't think. I don't
24 think I would be able to sit on the case.

25 THE COURT: Any questions?

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1 MR. HALE: No.

2 MR. SIMONS: No.

3 THE COURT: Okay. Ma'am, I can't excuse you
4 from jury duty.

5 PROSPECTIVE JUROR: That's okay.

6 THE COURT: You'll wait outside, and they'll
7 give you further instructions.

8 (PROSPECTIVE JUROR EXCUSED)

9 (At this time, a prospective juror approached
10 at sidebar)

11 THE COURT: Good morning.

12 May I have your card, please.

13 Your name, please?

14 PROSPECTIVE JUROR: Ruby Brookschaudhary.

15 THE COURT: Miss Brookschaudhary, you said it
16 would be a hardship if you had to serve on this case?

17 PROSPECTIVE JUROR: It's not a hardship. But
18 I feel there's no justice for black people. Sean Bell.
19 I feel sorry for him.

20 THE COURT: Well, ma'am, let me say this. I
21 know we all have feelings about certain issues,
22 including the justice system or anything else. What
23 we're looking for is jurors who can be fair and
24 impartial and call things straight up and down as they
25 see it. I don't know whether, in fact, you can set

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1 aside the feelings you have.

2 PROSPECTIVE JUROR: Uh-uh.

3 THE COURT: When you I say "uh-uh", is that a
4 no?

5 PROSPECTIVE JUROR: (Shaking head)

6 THE COURT: I can't hear you. No?

7 PROSPECTIVE JUROR: No. He didn't get no
8 justice.

9 THE COURT: That's that case. What I'm asking
10 you is whether you can concentrate on this particular
11 case.

12 PROSPECTIVE JUROR: No.

13 THE COURT: Any questions?

14 MR. SIMONS: No questions.

15 MR. HALE: No questions.

16 THE COURT: I'm going to excuse you.

17 Without people willing to sit on juries to
18 make sure people have a fair trial, then the myths
19 you're saying will always be perpetuated.

20 (PROSPECTIVE JUROR EXCUSED)

21 THE COURT: That's a person who doesn't want
22 to serve.

23 (At this time, a prospective juror approached
24 at sidebar)

25 THE COURT: Good morning.

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1 May I have your card, please.

2 Your name, sir?

3 PROSPECTIVE JUROR: My name is Gerald Seidman.

4 THE COURT: Mr. Seidman, you said it would be
5 a hardship if you had to serve on a case such as this?

6 PROSPECTIVE JUROR: Yes, because a child was
7 killed. My wife is diabetic and we struggled for years
8 to have a child, and to take the life of a child is a
9 terrible thing.

10 THE COURT: You understand that this is just
11 an accusation?

12 PROSPECTIVE JUROR: I know, but we struggled,
13 and she's diabetic and we had a lot of complications.

14 THE COURT: So you're saying you can't set
15 your personal feelings aside?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Any questions?

18 MR. SIMONS: No.

19 MR. HALE: No.

20 THE COURT: Okay, sir, just step out outside.

21 (PROSPECTIVE JUROR EXCUSED)

22 (At this time, a prospective juror approached
23 at sidebar)

24 THE COURT: May I have your card, please.

25 Your name, sir?

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1 PROSPECTIVE JUROR: Larry Wilson, Jr.

2 THE COURT: Mr. Wilson, Jr., you indicated it
3 would be difficult for you to sit on a case like this if
4 a child was involved?

5 PROSPECTIVE JUROR: I work for the District
6 Attorney's Office also. I don't know him, but I know
7 Vinny. I saw him before. But you said everyone has to
8 serve on the jury. I don't know if it matters because I
9 work there.

10 THE COURT: Well, the only way that it would
11 matter to me is if you're going to allow your
12 affiliation to affect how you view the evidence in this
13 particular case, Mr. Wilson.

14 PROSPECTIVE JUROR: It definitely would.

15 MR. HALE: We've seen each other. I don't
16 know him, but we've interacted many times in the past.

17 THE COURT: But my concern is, as I said, if
18 you're going to allow your affiliation to affect how you
19 call the evidence in this case, if that's going to be
20 the case, then you know that's unfair.

21 PROSPECTIVE JUROR: That's unfair. I think
22 it's going to be unfair for the jury and the
23 prosecution.

24 THE COURT: Okay. You'll have to wait
25 outside, Mr. Wilson, Jr., until they give you further

1 instructions.

2 (PROSPECTIVE JUROR EXCUSED)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: May I have your card, please.

6 Your name, please?

7 PROSPECTIVE JUROR: Yuying Wong.

8 THE COURT: Miss Wong, you indicated that it
9 would be difficult for you to sit on a case like this if
10 a young child was involved; is that correct?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Why is that, Miss Wong?

13 PROSPECTIVE JUROR: First of all, I would get
14 very emotion, and I would be unhappy and I would cry a
15 lot. Especially, I have two young kids. I stay home
16 and I don't want this to stay in my mind.

17 THE COURT: So you think that would affect
18 your judgment in this case?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Any questions?

21 MR. SIMONS: No questions.

22 MR. HALE: No questions.

23 THE COURT: Ma'am, you have to wait outside
24 until given further instructions. Just have a seat
25 outside the courtroom and wait for further instructions.

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1 (PROSPECTIVE JUROR EXCUSED)

2 (At this time, a prospective juror approached
3 at sidebar)

4 THE COURT: Good morning.

5 May I have your card, please.

6 Your name, please?

7 PROSPECTIVE JUROR: Guo Peng.

8 I don't understand so much English.

9 THE COURT: You don't understand so much
10 English?

11 PROSPECTIVE JUROR: No.

12 THE COURT: How long have you been in this
13 country, Miss Peng?

14 PROSPECTIVE JUROR: Ten years.

15 THE COURT: Do you work, Miss Peng?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Where do you work?

18 PROSPECTIVE JUROR: Manhattan.

19 THE COURT: Doing what?

20 PROSPECTIVE JUROR: Jewelry.

21 THE COURT: You make jewelry?

22 PROSPECTIVE JUROR: (No response)

23 THE COURT: If understanding everything was
24 one hundred percent, how much would you say you
25 understood when I was speaking, Miss Peng?

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1 PROSPECTIVE JUROR: Just so-so. About ten
2 percent.

3 THE COURT: Miss Peng, I can't excuse you from
4 jury duty. Just wait outside and they'll give you
5 further instructions. Just wait outside the courtroom.

6 PROSPECTIVE JUROR: Thank you.

7 (PROSPECTIVE JUROR EXCUSED)

8 (At this time, a prospective juror approached
9 at sidebar)

10 THE COURT: Good morning.

11 May I have your card, please.

12 Your name, sir?

13 PROSPECTIVE JUROR: Emanoix Piton.

14 THE COURT: Mr. Piton, you said it would be
15 difficult if you had to serve on this case if it
16 involved a young child?

17 Is that correct, Mr. Piton?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Why is that, sir?

20 PROSPECTIVE JUROR: Yes, because it's too big
21 for my English. In Criminal Court is a burden for me.
22 I'm self-employed, a taxi driver.

23 THE COURT: You're saying a lot of things.

24 The language, sir, what do you speak?

25 PROSPECTIVE JUROR: French and Creole.

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1 THE COURT: How long have you been in this
2 country?

3 PROSPECTIVE JUROR: Thirty-five years.

4 THE COURT: You're saying you don't
5 understand?

6 PROSPECTIVE JUROR: I say there's some terms
7 in the law.

8 THE COURT: If it's a term in the law, I will
9 explain it to you.

10 PROSPECTIVE JUROR: Yes. But I don't like to
11 judge and condemn people.

12 THE COURT: Well, what you're being asked to
13 do is not to condemn people, just judge the quality of
14 the evidence or the lack of evident in this particular
15 case. So, you're not being asked to judge the person.
16 You're being asked to judge the evidence.

17 Do you understand what I'm saying, Mr. Piton?

18 PROSPECTIVE JUROR: Yes, I do.

19 I don't like this case.

20 THE COURT: Well, it's not a matter of whether
21 you like the case or you don't like the case. It's a
22 matter of whether you can be fair and impartial in this
23 case.

24 I'm sure if I made a blanket statement, "Well,
25 does anyone like the nature of this kind of case?"

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1 everyone in here is going to say no. That's just the
2 nature of the case itself. That's one thing.

3 My concern is whether you could be fair and
4 impartial and give both sides a fair trial in this case.

5 PROSPECTIVE JUROR: I don't think so.

6 THE COURT: Do you have any questions?

7 MR. SIMONS: No questions.

8 MR. HALE: No questions.

9 THE COURT: Sir, have a seat outside. They'll
10 give you further instructions.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar)

14 THE COURT: Good morning.

15 May I have your card, please.

16 Your name, sir?

17 PROSPECTIVE JUROR: Brian Pescetto.

18 THE COURT: Mr. Pescetto, I asked whether
19 there was anything about the nature of the accusations
20 and the fact that it involved a child, whether that
21 would affect your ability to sit on this particular
22 case.

23 PROSPECTIVE JUROR: Yes, it would, Judge.

24 When you first started reading the charges,
25 the first thing that kept going to my mind was: Was it

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1 a child? Was it a child? And when you stated it was a
2 child, you know, my stomach turned, number one.

3 With that in mind, also, I've had family
4 members and close friends victims of gun violence. So,
5 just those two issues alone, I don't feel I can be
6 impartial and make a decision in this case.

7 THE COURT: You think you've already kind of
8 like made up your mind?

9 PROSPECTIVE JUROR: Yeah.

10 THE COURT: Without hearing anything?

11 PROSPECTIVE JUROR: Without hearing anything.

12 THE COURT: Any questions?

13 MR. SIMONS: No questions.

14 MR. HALE: No questions.

15 THE COURT: Sir, you have to wait outside the
16 courtroom, and they'll give you further instructions.

17 PROSPECTIVE JUROR: Thank you.

18 (PROSPECTIVE JUROR EXCUSED)

19 (At this time, a prospective juror approached
20 at sidebar)

21 THE COURT: Good morning.

22 May I have your card, please.

23 Your name, sir?

24 PROSPECTIVE JUROR: Jeffrey Tichenor.

25 THE COURT: Mr. Tichenor, I asked whether, in

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1 fact, there was anything about the nature of the case or
2 the fact that it involved a young child that might
3 prevent you from sitting on this case, and you asked to
4 speak to the Court as far as that is concerned.

5 PROSPECTIVE JUROR: The reason, I believe the
6 murder of a small child, whether it happened or not, I
7 just cannot impartially sit there and listen to the
8 evidence. A child is the most innocent thing, and to
9 think that someone, whether they did it or not, killed a
10 child -- I don't know.

11 THE COURT: In your mind, if, in fact, there
12 is a loss of a life of a young child, you've already
13 made up your mind?

14 PROSPECTIVE JUROR: Yes. The child is too
15 innocent.

16 THE COURT: Any questions?

17 MR. SIMONS: No.

18 MR. HALE: No questions.

19 THE COURT: Sir, you have to remain outside
20 until you're given further instructions.

21 (PROSPECTIVE JUROR EXCUSED)

22 (At this time, a prospective juror approached
23 at sidebar)

24 THE COURT: Good morning.

25 May I have your card, please.

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1 Your name, sir?

2 PROSPECTIVE JUROR: Boris Fukhansky.

3 THE COURT: Mr. Fukhansky, I asked whether
4 there was anything about the nature of this case or the
5 fact that it involved a young child that might affect
6 your ability to be fair and impartial, and you asked to
7 speak to the Court.

8 PROSPECTIVE JUROR: I would like to say this,
9 that I am retired, I am not busy with anything, except I
10 am volunteering for charity organization once a week.

11 I would love to help you have a fair trial,
12 but when I was thirty years old, my grandfather was
13 assaulted, killed, and his body was abused, and I
14 witnessed it. Since then, it's very painful. I'm
15 pretty sure I can't be impartial. This is only reason.

16 If you think this is enough to participate,
17 I'm ready.

18 THE COURT: Well, let me say this. If you're
19 saying that you can't put that incident that happened
20 with your grandfather out of your mind, that would
21 concern me because if, in fact, you heard something that
22 reminded you of that incident, my concern as a judge is
23 you might start thinking about what happened to your
24 family member and allow it to influence how you evaluate
25 the evidence in this case. Only you can answer that

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1 question.

2 PROSPECTIVE JUROR: Very painful. And a
3 murder like this makes me sick.

4 THE COURT: That's what I'm saying.

5 Any questions?

6 MR. SIMONS: No questions.

7 MR. HALE: No questions.

8 THE COURT: Sir, you'll have to wait outside.
9 Just have a seat outside and await further instructions.

10 (PROSPECTIVE JUROR EXCUSED)

11 (At this time, a prospective juror approached
12 at sidebar)

13 THE COURT: Good morning.

14 May I have your card, please.

15 Your name, sir?

16 PROSPECTIVE JUROR: My name is Eric
17 Wolliastow.

18 THE COURT: Mr. Wolliastow, I asked whether
19 there was anything about the nature of the case and the
20 fact that it involved a young child that might affect
21 your ability to be fair and impartial, and you came up
22 to speak to the Court, sir.

23 PROSPECTIVE JUROR: I just came back from
24 South Carolina about two months ago. A young man that I
25 was grooming to be an electrician, like myself, had been

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1 killed. The person who did this is still out on the
2 street and found with a gun about two weeks ago and is
3 still out on the street.

4 Also, my sister was held up, my wife was held
5 up, and the cops were driving around with her to see if
6 she could identify anyone. I got a very bad passion
7 about that.

8 THE COURT: Well, as a judge, with the bad
9 passion you have, would that affect your ability to be
10 fair and impartial in this particular case?

11 PROSPECTIVE JUROR: Well, I might be too
12 controversial about it. Because I'm definitely against
13 anyone who would have a gun without a permit or
14 something. They should apply for it, but they shouldn't
15 be having illegal guns. That's my opinion.

16 THE COURT: Let me ask you this tough
17 question, Mr. Wolliastow. Can you move beyond that and
18 listen to the evidence in this case and then decide
19 based upon what you hear coming from the mouths of the
20 witnesses, number one, whether a crime was committed,
21 and number two, whether the person on trial committed
22 the crime, and call the evidence straight up and down as
23 you see it, or are you going to allow the experiences
24 that you have affect how you evaluate the evidence in
25 this case? Certainly, that would be unfair to the

1 parties.

2 PROSPECTIVE JUROR: It would be very hard for
3 me to decide, you know, someone's fate that way.

4 THE COURT: Let me put it this way. If you
5 heard something that reminded you of either your wife's
6 situation or the young man that you were grooming to
7 become an electrician, if it reminded you of their
8 situation, would you then start thinking about their
9 situation and allow that to affect how you view the
10 evidence?

11 PROSPECTIVE JUROR: Yes, it would.

12 THE COURT: Any questions?

13 MR. SIMONS: No questions.

14 MR. HALE: No questions.

15 THE COURT: All right.

16 Sir, you have to remain outside until they
17 give you further instructions.

18 (PROSPECTIVE JUROR EXCUSED)

19 (At this time, a prospective juror approached
20 at sidebar)

21 THE COURT: Good morning.

22 May I have your card, please.

23 Your name, please.

24 PROSPECTIVE JUROR: Cristina Jimenez.

25 THE COURT: Miss Jimenez, I asked whether

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1 there was anything about the fact that this case
2 involved a young child that might prevent you from being
3 fair and impartial, and you asked to speak to the Court.

4 PROSPECTIVE JUROR: Sure. I have a
5 four-year-old daughter I would give my life for. My
6 maiden name is Lorenzo, and my sister was falsely
7 accused for prostitution, and she sued the City of
8 New York.

9 THE COURT: You mentioned a number of things.
10 What I need to find out from you is whether
11 the fact that you have a young child, would that affect
12 how you evaluate the evidence?

13 PROSPECTIVE JUROR: Yes. I'm a very emotional
14 person.

15 THE COURT: Any questions?

16 MR. SIMONS: No questions.

17 MR. HALE: No questions.

18 THE COURT: Okay.

19 Ma'am, you have to remain outside the court
20 and await further instructions.

21 (PROSPECTIVE JUROR EXCUSED)

22 (At this time, a prospective juror approached
23 at sidebar)

24 THE COURT: Good morning.

25 May I have your card, please.

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1 Your name, sir?

2 PROSPECTIVE JUROR: Ralph Richardson.

3 THE COURT: Mr. Richardson, I asked whether
4 there was anything about the nature of the case and the
5 fact that it involved a young child that might affect
6 your ability to be fair and impartial in this particular
7 case.

8 PROSPECTIVE JUROR: Yeah, very much so. I
9 think it's despicable.

10 THE COURT: Let me say this. I have to ask
11 the tough questions, Mr. Richardson, and you have to let
12 me know, because we all have feelings as humans,
13 otherwise we would be robots, whether, in fact, you can
14 listen to the evidence in this case without having your
15 personal feelings affect how you evaluate the evidence
16 in this case. If you can do that. I know it's a tough
17 question.

18 PROSPECTIVE JUROR: That's a good question. I
19 don't know if I can transcend my emotions. I don't know
20 if I can rise above it. It's somebody's life. I think
21 it's wild. It's a little girl. If it was an adult, I
22 would be fine, but a child and a little girl --

23 THE COURT: You don't think you can do it?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Any questions?

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1 MR. SIMONS: No questions.

2 MR. HALE: No questions.

3 THE COURT: Thank you for your honesty.

4 You'll wait outside the courtroom until you
5 get further instructions, Mr. Richardson.

6 (PROSPECTIVE JUROR EXCUSED)

7 (At this time, a prospective juror approached
8 at sidebar)

9 THE COURT: Good morning.

10 May I have your card, please.

11 Your name, sir?

12 PROSPECTIVE JUROR: Maury Loeb.

13 THE COURT: Mr. Loeb, I mentioned the fact
14 that this matter involved a child, if there was anything
15 about that that might affect your ability to be fair and
16 impartial, and you asked to speak to the Court.

17 PROSPECTIVE JUROR: Yes. I have a
18 three-year-old daughter and a brand new baby boy. It's
19 an emotional time for me anyway. There was a shooting
20 in my daughter's playground earlier in the year, and I
21 just think about this stuff. It drives me crazy, this
22 kind of stuff.

23 THE COURT: Well, let me ask you the tough
24 question, Mr. Loeb. Certainly it would drive anybody
25 crazy, what you just said. What I'm asking is whether,

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1 in fact, you can hold those emotions in abeyance and
2 listen to the evidence as it comes in in this particular
3 case? I know it's a tough question. You have to tell
4 me whether, in fact, you can do it.

5 PROSPECTIVE JUROR: I don't know. I don't
6 know if I can do it.

7 THE COURT: You don't know if you can?

8 PROSPECTIVE JUROR: I don't think so.

9 THE COURT: Any questions?

10 MR. SIMONS: No questions.

11 MR. HALE: Nothing.

12 THE COURT: Sir, you have to wait outside
13 until they give you further instructions.

14 (PROSPECTIVE JUROR EXCUSED)

15 (At this time, a prospective juror approached
16 at sidebar)

17 THE COURT: Good morning.

18 May I have your card, please.

19 Your name, sir?

20 PROSPECTIVE JUROR: Yisrael Zwick.

21 THE COURT: Mr. Zwick, I mentioned the fact
22 there was a young child involved and whether there was
23 anything about that that might affect your ability to be
24 fair and impartial, and you asked to speak to the Court.

25 PROSPECTIVE JUROR: Yes. I have a

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1 two-and-a-half-year-old son, and we're expecting our
2 second. I don't know -- I mean, sitting here and
3 listening to a story like this, it's hard.

4 THE COURT: I know it's hard. But, Mr. Zwick,
5 I have to ask you the tough question, whether, in fact,
6 you can put your emotions aside and listen to the
7 evidence as it comes in in this particular case and
8 judge the evidence or --

9 PROSPECTIVE JUROR: I don't know.

10 THE COURT: -- the lack of evidence in this
11 courtroom?

12 PROSPECTIVE JUROR: I haven't heard anything
13 other than the fact there's a young child involved, and
14 already it's like -- I don't know.

15 THE COURT: You're saying already you're
16 starting to leaning in one direction?

17 PROSPECTIVE JUROR: Yes. My stomach is
18 starting to turn.

19 THE COURT: Do you think that would affect
20 your ability to be fair and impartial in this case, sir?

21 PROSPECTIVE JUROR: I suspect it would.

22 THE COURT: Any questions?

23 MR. SIMONS: No questions.

24 MR. HALE: No.

25 THE COURT: Sir, you'll wait outside the

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1 courtroom for further instructions.

2 (PROSPECTIVE JUROR EXCUSED)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Good morning.

6 May I have your card, please.

7 Your name, sir?

8 PROSPECTIVE JUROR: My name is Wesner Felix.

9 THE COURT: Mr. Felix, I mentioned that the
10 case involved a young child and whether there was
11 anything about that that might affect your ability to be
12 fair and impartial in this particular case, and you
13 asked to speak to the Court.

14 PROSPECTIVE JUROR: Yes, because --

15 THE COURT: I'm going to ask that you lean in
16 and speak louder.

17 PROSPECTIVE JUROR: This is going to be very
18 hard for me to understand the judicial system. As a
19 father, I'm very -- I cannot take it. The judicial
20 system.

21 THE COURT: Do you have any questions?

22 MR. SIMONS: No, no.

23 THE COURT: Certainly, sir, you'll remain
24 outside until they give you further instructions.

25 (PROSPECTIVE JUROR EXCUSED)

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1 (At this time, a prospective juror approached
2 at sidebar)

3 THE COURT: Good morning.

4 May I have your card, please.

5 Your name, please?

6 PROSPECTIVE JUROR: Enza Yau.

7 THE COURT: Miss Yau, I mentioned the fact
8 that there was a young child that was involved and
9 whether there was anything about that that might affect
10 your ability to be fair and impartial in this case, and
11 you asked to speak to the Court.

12 PROSPECTIVE JUROR: I don't understand too
13 much.

14 THE COURT: You don't understand English?

15 PROSPECTIVE JUROR: A little bit only.

16 THE COURT: Okay. How long have you been in
17 this country, Miss Yau?

18 PROSPECTIVE JUROR: Nine.

19 THE COURT: Nine years?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Do you work, Miss Yau?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: What kind of work do you do?

24 PROSPECTIVE JUROR: Sales. Spanish.

25 THE COURT: You speak Spanish, but you don't

1 speak English?

2 PROSPECTIVE JUROR: A little bit.

3 THE COURT: Let me ask you this. When I was
4 speaking, Miss Yau, how much would you say you
5 understood? If understanding everything was one hundred
6 percent, how much would you say you understood?

7 PROSPECTIVE JUROR: I don't understand. Only
8 very little. Not even one quarter. When you asked, I
9 had to ask people what you say because you talk too
10 fast.

11 THE COURT: I wasn't talking any faster than
12 you, Miss Yau.

13 She's saying she doesn't understand.

14 You'll have to remain outside the courtroom
15 until they give you further instructions, Miss Yau.
16 Just have a seat outside.

17 (PROSPECTIVE JUROR EXCUSED)

18 (At this time, a prospective juror approached
19 at sidebar)

20 THE COURT: Good morning.

21 May I have your card, please.

22 Your name, sir?

23 PROSPECTIVE JUROR: Ashfaq Mehmood.

24 THE COURT: Mr. Mehmood, I asked whether there
25 was anything about the fact that a child was involved in

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1 this case, whether that would affect your ability to be
2 fair and impartial, and you asked to speak to the Court,
3 Mr. Mehmood.

4 PROSPECTIVE JUROR: I don't really much
5 understand.

6 THE COURT: What language do you speak, sir?

7 PROSPECTIVE JUROR: Urdu.

8 THE COURT: How long have you been in this
9 country?

10 PROSPECTIVE JUROR: It's almost fifteen years.

11 THE COURT: Fifteen years? Do you work,
12 Mr. Mehmood?

13 PROSPECTIVE JUROR: I drive a cab.

14 THE COURT: How do you know where to drive?

15 PROSPECTIVE JUROR: I understand, but not the
16 court. This is really very hard for me to understand.

17 THE COURT: Let me ask you, if understanding
18 everything was one hundred percent, how much would you
19 say you understood when I was speaking, Mr. Mehmood?

20 PROSPECTIVE JUROR: I just heard like you say
21 the murder. So, just a couple questions, not very much.

22 THE COURT: Okay. If he's saying he doesn't
23 understand, he doesn't understand.

24 Any questions?

25 MR. SIMONS: No questions.

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1 MR. HALE: No questions.

2 THE COURT: Sir, you have to remain outside
3 the courtroom and wait for further instructions. Okay?

4 PROSPECTIVE JUROR: Thank you.

5 (PROSPECTIVE JUROR EXCUSED)

6 (The following occurred in open court in the
7 presence of the panel of prospective jurors:)

8 THE COURT: Jurors, this case involves Murder
9 in the Second Degree, Attempted Murder in the Second
10 Degree, Assault in the First Degree--three counts,
11 Criminal Possession of a Weapon in the Second Degree,
12 and Criminal Possession of a Weapon in the Fourth
13 Degree.

14 We expect this case to take approximately six
15 to nine days to try, and that will be starting on
16 Monday.

17 Now, is there anyone who, by reason of extreme
18 hardship, could not serve until that time?

19 If so, I would ask that you raise your hand.

20 (HANDS RAISED)

21 THE COURT: I see a few hands. A number of
22 hands.

23 I will speak to those who indicate that it is
24 a hardship.

25 Again, jurors, let me say this. I'm going to

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1 ask that you be open and honest in your reasons because,
2 again, I do know injury duty interferes with your
3 everyday lives. Certainly, again, our system cannot
4 operate without jurors, such as yourself, who stand
5 ready, willing and able to serve.

6 Let me see the hands of those jurors who said
7 because of the length of the trial it would be a
8 hardship.

9 What I'm going to ask you to do is follow the
10 instructions of the Sergeant in this case.

11 (The following occurred at sidebar out of the
12 hearing of the panel of prospective jurors:)

13 (At this time, a prospective juror approached
14 at sidebar)

15 THE COURT: Good morning.

16 May I have your card, please.

17 Your name, sir?

18 PROSPECTIVE JUROR: Mark Rohrer.

19 THE COURT: Mr. Rohrer, you said it would be a
20 hardship if you had to serve the six to nine days, sir?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Why is that?

23 PROSPECTIVE JUROR: I owe \$12,000 to the
24 I.R.S. after taxes. I didn't work for January and
25 February, and I just found work. I'm a freelancer, so I

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1 don't get paid unless I work.

2 THE COURT: What kind of work do you do?

3 PROSPECTIVE JUROR: I'm an animator in
4 broadcast.

5 THE COURT: You're saying that --

6 PROSPECTIVE JUROR: That I would lose a
7 considerable amount of money that I owe. I'm in debt.

8 THE COURT: Let me say this, sir. If you are
9 selected to serve, would that affect your ability to sit
10 on this case and concentrate on this case?

11 PROSPECTIVE JUROR: No, it wouldn't.

12 THE COURT: You're saying that you can serve,
13 but it would be a financial hardship?

14 PROSPECTIVE JUROR: Exactly, yes.

15 THE COURT: And it would not affect your
16 ability to be fair and impartial?

17 PROSPECTIVE JUROR: I don't think so, no.

18 THE COURT: Let me say this. At this point,
19 I'm not going to exclude you from consideration. I'm
20 not saying we're going to pick you, but I'm certainly
21 not going to exclude you.

22 (At this time, the prospective juror returned
23 to the audience)

24 (At this time, a prospective juror approached
25 at sidebar)

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1 THE COURT: Good morning.

2 May I have your card, please.

3 Your name, sir?

4 PROSPECTIVE JUROR: Chaskel Zenwirth.

5 THE COURT: Mr. Zenwirth, you stated that it
6 would be a hardship if you had to serve six to nine
7 days, sir?

8 PROSPECTIVE JUROR: I don't think I'll be able
9 to take the case, so I don't think it's necessary for me
10 to sit here.

11 THE COURT: When you say "take the case", you
12 have to be more specific than that, Mr. Zenwirth.

13 PROSPECTIVE JUROR: I mean to say, since I was
14 10 years old, I was taught that a murder is to be
15 killed, and this is the way we learned -- I don't even
16 think another way.

17 THE COURT: Let me say this, sir. At this
18 point, you haven't heard any evidence, you only heard
19 accusations. It's going to be up to the jurors to
20 determine, number one, whether a crime was committed,
21 and, number two, whether the person on trial is the
22 person who committed the offenses charged.

23 PROSPECTIVE JUROR: I don't think that a
24 murder case, in my eyes, are usually not by accident.
25 It is the way I was taught. Especially a young child.

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1 My grandfather had a young child killed in the
2 Holocaust. He said if you kill a young child, you
3 didn't kill one person, you killed all the people that
4 would come out afterwards.

5 THE COURT: You haven't heard any evidence.
6 Do you have any questions?

7 MR. SIMONS: No questions.

8 MR. HALE: No questions.

9 THE COURT: Sir, you'll have a seat outside
10 the courtroom and await further instructions.

11 (PROSPECTIVE JUROR EXCUSED)

12 (At this time, a prospective juror approached
13 at sidebar)

14 THE COURT: Good morning.
15 May I have your card, please.
16 Your name, sir?

17 PROSPECTIVE JUROR: Flavio Lemelle.

18 THE COURT: Mr. Lemelle, I indicated the case
19 would take approximately six to nine days to try, and
20 you stated it would be a hardship?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Why is that, sir?

23 PROSPECTIVE JUROR: I'm a composer, I'm
24 self-employed. I just went out on my own about six
25 months ago. Things are slow, but calls are coming in.

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1 If I'm not available, I might lose clients. If it was
2 two or three days, that would be fine. But six to nine
3 days, that would be rough for me.

4 THE COURT: You're saying the calls are
5 starting to come in. Do you have anything lined up as
6 of now?

7 PROSPECTIVE JUROR: No. I've been calling,
8 calls come in, and if I'm not available -- You know,
9 things can turn around in a day. If I'm not available,
10 I would lose those jobs.

11 THE COURT: Let me say this. You would have
12 to respond to the calls.

13 PROSPECTIVE JUROR: If I don't impress them
14 with the calls, they don't call back. That's the way it
15 works in this business.

16 THE COURT: You're saying that if you don't
17 answer the call the first time they call you --

18 PROSPECTIVE JUROR: If I'm not available to
19 turn the work around in that day or day-and-a-half, I'm
20 pretty much going to lose that contact. I'm not going
21 to be able to do work for them anymore. It's pretty
22 competitive.

23 THE COURT: How long does it take, to turn
24 things around?

25 PROSPECTIVE JUROR: Like a day,

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1 day-and-a-half, they want it. That's when I turn it
2 around. If I can't do it in that amount of time --
3 Right now, I'm trying to establish my credibility. It's
4 pretty tough.

5 THE COURT: Let me say this. If we're working
6 from nine to five, you would have time to work on
7 whatever projects you had?

8 PROSPECTIVE JUROR: If I was available nine to
9 five, I would be able to.

10 THE COURT: No, no. I'm saying we're in
11 session nine to five.

12 PROSPECTIVE JUROR: The problem is I rent a
13 studio, I share it with another guy. If I could work at
14 night, I would do it. I have a studio that I rent, and
15 I share with someone else. I can't afford it by myself.
16 I can't work overnight and do the work. I'm pretty much
17 locked to the day.

18 I don't take this lightly. I thought about
19 getting on line here because six to nine days is really
20 serious to me. Two or three days is different.

21 THE COURT: There's nothing much that can be
22 tried in two or three days, I can tell you that.

23 Do you have any questions?

24 MR. SIMONS: No.

25 MR. HALE: No questions.

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1 THE COURT: Sir, you can have a seat outside
2 and await further instructions.

3 (PROSPECTIVE JUROR EXCUSED)

4 (At this time, a prospective juror approached
5 at sidebar)

6 THE COURT: Good morning.

7 May I have your card, please.

8 Your name, sir?

9 PROSPECTIVE JUROR: Thaer Abdelrasoul.

10 THE COURT: Sir, you said it would be
11 difficult for you to serve the six to nine days on this
12 case?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Why is that?

15 PROSPECTIVE JUROR: Because this is my last
16 semester in college; I have finals coming up. I can't
17 afford to miss my final projects. I should be
18 graduating in June.

19 THE COURT: Okay. When are your finals
20 scheduled, sir?

21 PROSPECTIVE JUROR: Starting next week.

22 THE COURT: Let me say this. I know that
23 sometimes students who have been in college who have
24 gone through finals, we give them a letter from the
25 Court stating that they're actually on jury duty so that

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1 the professors know they're actually performing jury
2 duty and not on vacation. If we did that, would that
3 address the concerns you have and maybe they would have
4 to make arrangements to reschedule your finals?

5 PROSPECTIVE JUROR: I'm pretty sure they'll
6 allow me to retake them, but I'd rather be on time.

7 THE COURT: I understand what you're saying.
8 I'm sure there would be difficulty, but I'm asking you
9 now whether that would affect your judgment on this
10 particular case?

11 PROSPECTIVE JUROR: I don't think so.

12 THE COURT: Okay. Sir, I'm going to ask that
13 you have a seat in the audience at this point. I'm not
14 going to excuse you at this point. Just have a seat in
15 the audience.

16 (At this time, the prospective juror returned
17 to the audience)

18 THE COURT: I'm not going to excuse him at
19 this point.

20 (At this time, a prospective juror approached
21 at sidebar)

22 THE COURT: Good morning.
23 May I have your card, please.

24 Your name, sir?

25 PROSPECTIVE JUROR: Stanislaw Pietras.

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1 THE COURT: Mr. Pietras, you said it would be
2 a hardship if you had to serve the six to nine days,
3 sir?

4 PROSPECTIVE JUROR: I think so because I am
5 scheduled for knee surgery next Friday.

6 THE COURT: You're scheduled for knee surgery
7 next Friday, you said?

8 PROSPECTIVE JUROR: Yes. Not exactly, I have
9 to talk to the doctor. He promised me to do it next
10 Friday.

11 THE COURT: If you have the knee surgery, how
12 long will you have to be off that leg, sir?

13 PROSPECTIVE JUROR: About four weeks.

14 THE COURT: How old are you, sir?

15 PROSPECTIVE JUROR: 58.

16 THE COURT: Do you have any questions?

17 MR. SIMONS: No.

18 MR. HALE: No.

19 THE COURT: Sir, have a seat outside and
20 they'll give you further instructions.

21 PROSPECTIVE JUROR: Another problem, my
22 English is --

23 THE COURT: Sir, you'll go outside and remain
24 for further instructions.

25 (PROSPECTIVE JUROR EXCUSED)

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1 (At this time, a prospective juror approached
2 at sidebar)

3 THE COURT: Good morning.

4 May I have your card, please.

5 Your name, sir?

6 PROSPECTIVE JUROR: John Oliver.

7 THE COURT: Mr. Oliver, you said it would a
8 hardship for you if you had to serve the six to nine
9 days?

10 PROSPECTIVE JUROR: Yes. I start a new job on
11 Monday. Before I started this job, I was working
12 freelance, so I'm also transitioning out of those jobs
13 as a designer. I have basically two jobs right now, and
14 I'm a manager on a team. I got here late today because
15 I had a project meeting at 7:30 this morning. I got
16 four voice mails.

17 THE COURT: Let me ask you this. Would the
18 things that you're juggling affect your ability to
19 concentrate on the evidence in this particular case?

20 PROSPECTIVE JUROR: Based on this morning, I
21 heard basically half the stuff you said about what the
22 indictment was. I heard the first three or four things.
23 My head is just elsewhere.

24 THE COURT: So you don't believe you'll be
25 able to concentrate; is that correct?

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1 PROSPECTIVE JUROR: No.

2 THE COURT: Any questions?

3 MR. HALE: No.

4 MR. SIMONS: No.

5 THE COURT: Okay, sir. You'll have to wait
6 outside the courtroom. They'll give you further
7 instructions, Mr. Oliver.

8 (PROSPECTIVE JUROR EXCUSED)

9 (At this time, a prospective juror approached
10 at sidebar)

11 THE COURT: Good morning.

12 May I have your card, please.

13 Your name, sir?

14 PROSPECTIVE JUROR: Douglas Wexler.

15 THE COURT: Mr. Wexler, you said it would be a
16 hardship if you had to serve the six to nine days?

17 PROSPECTIVE JUROR: I'm a one-man company, and
18 I have one client Wednesday next week and Monday the
19 following. I'm contractually obligated to give three
20 seminars, and those are two of the three.

21 THE COURT: What kind of work do you do?

22 PROSPECTIVE JUROR: Investment advising and
23 financial planning for unions and groups of different
24 organizations.

25 THE COURT: You said it's Wednesday of next

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1 week?

2 PROSPECTIVE JUROR: Monday and Wednesday.

3 THE COURT: You're talking about Monday, May
4 7th, and the 12th?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: And that's all day; is that
7 correct?

8 PROSPECTIVE JUROR: Yes, with the travel.

9 THE COURT: Okay. Let me ask you this,
10 Mr. Wexler. If, in fact, you were picked to serve on
11 this particular case, would it affect your ability to
12 concentrate on the evidence in this case?

13 PROSPECTIVE JUROR: I can't see not being
14 extremely anxious and distracted.

15 THE COURT: Any questions?

16 MR. SIMONS: No questions.

17 MR. HALE: No.

18 THE COURT: Mr. Wexler, you'll remain outside
19 until you receive further instructions.

20 (PROSPECTIVE JUROR EXCUSED)

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good morning.

24 May I have your card, please.

25 Your name, please?

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1 PROSPECTIVE JUROR: Lisa Sinckler.

2 THE COURT: Miss Sinckler, you said it would
3 be a hardship if you had to serve the six to nine days?

4 PROSPECTIVE JUROR: Yes. I'm a consultant and
5 I work on per diem. I mean, I only get paid for the
6 days I worked. I have a mortgage to pay, bills,
7 everything.

8 THE COURT: What kind of work do you actually
9 do?

10 PROSPECTIVE JUROR: I'm a project manager for
11 I.B.M.

12 THE COURT: Do you have jobs lined up at this
13 point?

14 PROSPECTIVE JUROR: What do you mean by that?

15 THE COURT: You said you're a consultant?

16 PROSPECTIVE JUROR: Right. I'm working right
17 now for I.B.M. Right now, I have three projects that
18 I'm managing right now, and I'm only getting paid for
19 the days I'm working. So even for this week, I'm only
20 going to get paid for three days.

21 THE COURT: Let me ask you this,
22 Miss Sinckler. If you were selected to serve on this
23 particular case, and the fact of your circumstances,
24 would that affect whether you would be able to
25 concentrate on the evidence in this case?

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1 PROSPECTIVE JUROR: Yeah. Exactly. I have
2 bills to pay, you know?

3 THE COURT: Any questions?

4 MR. SIMONS: No questions.

5 MR. HALE: No questions.

6 THE COURT: Remain outside until they give you
7 further instructions.

8 (PROSPECTIVE JUROR EXCUSED)

9 (At this time, a prospective juror approached
10 at sidebar)

11 THE COURT: Good morning.

12 May I have your card, please.

13 Your name, sir?

14 PROSPECTIVE JUROR: Daniel Cipriano.

15 THE COURT: Mr. Cipriano, you said it would be
16 a hardship for you to serve the six to nine days?

17 PROSPECTIVE JUROR: I just want to be sure
18 before we start. Because I'm supporting my sister in
19 the Philippines and my nephew who is mentally retarded.
20 I just want to be sure, because I'm picking up cases
21 outside, you know, treatment.

22 THE COURT: What is the nature of the work you
23 do?

24 PROSPECTIVE JUROR: I'm a therapist. I just
25 want to be sure it would be no problem with my income

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1 coming in.

2 THE COURT: Well, normally we're in session
3 from nine to five. So, when you say your income --

4 PROSPECTIVE JUROR: You know, there would be
5 interruption with my income. You know what I'm saying?
6 I am a state worker, but I pick up cases outside also to
7 support my sister and my nephew. I just want to be
8 sure. You know what I'm saying?

9 THE COURT: No, I'm not really sure.
10 You work for the state?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: In what capacity?

13 PROSPECTIVE JUROR: I'm also paying for the
14 Chapter 13 bankruptcy. I'm picking up cases outside. I
15 just want to make sure there's no interruption if it
16 happens I'm selected in this case.

17 THE COURT: I don't know when you're scheduled
18 to do the other cases that you have, but this is for the
19 six to nine days, it would be from 9 a.m. to 5 p.m.

20 PROSPECTIVE JUROR: I just want to be sure it
21 won't affect my income.

22 THE COURT: If you don't schedule your
23 appointments from 9 a.m. to 5 p.m. If it's after that,
24 then certainly it should not.

25 PROSPECTIVE JUROR: Sure.

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1 THE COURT: Okay?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Is that the only question you had?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Any questions?

6 MR. SIMONS: No.

7 MR. HALE: No.

8 THE COURT: Thank you.

9 (At this time, the prospective juror returned
10 to the audience)

11 (At this time, a prospective juror approached
12 at sidebar)

13 THE COURT: Good morning.

14 May I have your card, please.

15 Your name sir?

16 PROSPECTIVE JUROR: Sam Wainer.

17 THE COURT: Mr. Wainer, you said it would be a
18 hardship if you had to serve six to nine days, sir?

19 PROSPECTIVE JUROR: Yes. I'm leaving the
20 country in two weeks and leaving New York state after
21 that. As a result of that, I need to be able to get a
22 vaccine on Wednesday of next week, and also need to be
23 at work to close out accounts during these two weeks.

24 THE COURT: What kind of work do you do?

25 PROSPECTIVE JUROR: I'm a marketing

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1 consultant. I do marketing research. I have a note
2 from the doctor about the vaccine.

3 THE COURT: Certainly it's not going to take
4 all day for the vaccine.

5 PROSPECTIVE JUROR: No. I have to get it on
6 Wednesday.

7 THE COURT: But I'm saying is there a
8 particular time you're scheduled for?

9 PROSPECTIVE JUROR: Yes, there is.

10 THE COURT: What time?

11 PROSPECTIVE JUROR: Two.

12 THE COURT: So, let me say then that that
13 should not be an issue.

14 What I'm more concerned about, if you're
15 saying two weeks, when are you actually planning to
16 leave the country?

17 PROSPECTIVE JUROR: The flight leaves on
18 the 19th.

19 THE COURT: I don't know, that may or may not
20 be a problem. You're saying you're leaving on the 19th?

21 PROSPECTIVE JUROR: Yes, it's nonrefundable.

22 THE COURT: You mentioned about closing out
23 accounts.

24 PROSPECTIVE JUROR: Because I'm leaving the
25 country and leaving New York, my job, I need to be there

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1 to train people and help people to do my job, and there
2 is no one else who can do it.

3 THE COURT: I don't know if that's an excuse,
4 because God forbid, let's say, something happened to you
5 where you weren't around, they would find somebody to
6 train. And it's not as though you're leaving early to
7 go on vacation. That's certainly not the issue.

8 Mr. Wainer, let me ask you this. If you were
9 selected to serve, with everything that you know you
10 have to do, would that affect your ability to listen to
11 the evidence and concentrate on the evidence in this
12 case?

13 PROSPECTIVE JUROR: I think my need to leave
14 could affect my ability, obviously.

15 THE COURT: Do you have any questions?

16 MR. HALE: No.

17 MR. SIMONS: No.

18 THE COURT: Sir, you'll wait outside until you
19 hear further instructions.

20 (PROSPECTIVE JUROR EXCUSED)

21 (At this time, a prospective juror approached
22 at sidebar)

23 THE COURT: Good morning.

24 May I have your card, please.

25 Your name, please?

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1 PROSPECTIVE JUROR: Falon Chavous.

2 THE COURT: Miss Chavous, you said it would be
3 a hardship if you had to serve the six to nine days?

4 PROSPECTIVE JUROR: It's how many?

5 THE COURT: Six to nine days.

6 PROSPECTIVE JUROR: My thing is I just got a
7 new job that I started a month and a half ago. I know
8 they cover five days for jury duty. I'm not sure if
9 they're going to cover the rest.

10 THE COURT: Is it new employment?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: I guess you haven't spoken with
13 them. Let me ask you this. If, in fact, we wrote a
14 letter to indicate that you were actually on jury duty
15 and with the expected length of the trial, would that
16 help you?

17 PROSPECTIVE JUROR: I'm not sure. I'm new to
18 the company. I don't know what the procedures are. I
19 did speak to them about the first initial jury day, and
20 they stated they'll cover that. I'm not sure about the
21 extended period of time.

22 THE COURT: Well, do you know if there's
23 anyone you can call to find out?

24 PROSPECTIVE JUROR: Yeah, I can try to call
25 H.R.

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1 THE COURT: Okay. What I would ask that you
2 do is try to do that during the luncheon recess to see
3 if you can get an answer as far as that is concerned,
4 and then you'll speak to the Court again.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: And tell them what the expected
7 trial time is, six to nine days. That the case would
8 take approximately six to nine days to try.

9 PROSPECTIVE JUROR: Okay. I don't know if
10 it's going to affect the dates, but I'm also going on
11 vacation in three weeks.

12 THE COURT: Three weeks wouldn't be the
13 problem.

14 PROSPECTIVE JUROR: The 22nd.

15 THE COURT: That shouldn't be a problem.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: So maybe you can find out from
18 your job.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay. Have a seat in the
21 audience.

22 (At this time, the prospective juror returned
23 to the audience)

24 THE COURT: I don't think we should discount
25 her at this point.

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1 (The following occurred in open court in the
2 presence of the panel of prospective jurors:)

3 THE COURT: Certainly, jurors, you have to
4 tell us anything you think might interfere with your
5 judgment of this case. That would be include any
6 physical disability or any conditions that you have that
7 might prevent you from concentrating on the evidence.

8 Certainly, jurors, if any such problem comes
9 to mind, you can always ask to approach the bench and
10 speak to the Court privately.

11 Now, jurors, I will now state to you certain
12 basic principles of law which you must accept, whether
13 you agree with these principles of law or not, or even
14 if you think that the law should be something other than
15 what it actually is.

16 Now, jurors, if for any reason you cannot
17 accept any one of these principles of law, then you must
18 raise your hand and so indicate that so that we can then
19 explore those areas together.

20 Now, jurors, the defendant was brought into
21 this courtroom by way of an indictment. An indictment
22 is a name given to a piece of paper. Jurors, an
23 indictment is not proof of anything. It is only the
24 means by which this defendant has been brought into
25 court, and it outlines the complaint against the

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1 defendant.

2 Jurors, an indictment is only an accusation of
3 a crime, and you cannot infer that a defendant is guilty
4 because he has been arrested and because he has been
5 indicted by a Grand Jury.

6 Can each of you accept that fact?

7 (AFFIRMATIVE RESPONSE FROM JURORS)

8 THE COURT: Is there any one of you who cannot
9 accept that fact?

10 I would ask you to raise your hand high so
11 that we can explore that area together.

12 (NO HAND RAISED)

13 THE COURT: Again, I don't see any hands.

14 Now, jurors, the defendant comes into this
15 courtroom to answer the indictment when he pleads not
16 guilty. The law provides that the defendant is presumed
17 innocent until proven guilty beyond a reasonable doubt.

18 Jurors, can each of you accept the fact that
19 at this point this defendant is innocent of all crimes
20 against him? Can everyone accept that fact?

21 (AFFIRMATIVE RESPONSE FROM JURORS)

22 THE COURT: Is there any one of you who cannot
23 accept that fact?

24 I would ask that you raise your hand high so
25 that we can explore that area together.

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1 (NO HAND RAISED)

2 THE COURT: Again, I don't see any hands.

3 Jurors, I'm going to tell you that there are
4 no right or wrong answers, only truthful answers.

5 Jurors, you understand that because of these
6 concepts and because you have not heard any evidence up
7 to this point, jurors, if you are asked to vote right
8 now, you would have to vote that the defendant is not
9 guilty.

10 Can each of you accept that fact?

11 (AFFIRMATIVE RESPONSE FROM JURORS)

12 THE COURT: Is there any one of you who cannot
13 accept that fact?

14 I would ask that you raise your hand high so
15 that we can explore that area together.

16 (NO HAND RAISED)

17 THE COURT: Again, I don't see any hands.

18 Jurors, do any of you feel that because
19 Mr. Waiters has been brought into court on an indictment
20 and arrested that he must be guilty of something?

21 Does anyone feel that way? I would ask that
22 they raise their hand.

23 (NO HAND RAISED)

24 THE COURT: Again, I don't see any hands.

25 Jurors, the law grants this defendant the

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1 presumption of innocence throughout the trial, and the
2 law has placed the burden to prove that the defendant is
3 guilty beyond a reasonable doubt on the shoulders of the
4 District Attorney's Office, and that burden of proof
5 never shifts.

6 Jurors, please bear in mind that the defendant
7 in this case need not prove anything. The law says that
8 if the prosecution meets its burden and proves that the
9 defendant is guilty beyond a reasonable doubt, it will
10 be your responsibility as a juror to find the defendant
11 guilty.

12 Now, jurors, can you find the defendant guilty
13 if the People prove his guilt to you beyond a reasonable
14 doubt? Can everyone do that?

15 (AFFIRMATIVE RESPONSE FROM JURORS)

16 THE COURT: Is there any juror, because of
17 religious, moral or other reasons, that feels that you
18 would be unable to do that?

19 I would ask that you raise your hand high so
20 that we can explore that area together.

21 (NO HAND RAISED)

22 THE COURT: Again, I don't see any hands.

23 Now, jurors, if identity is an issue, then of
24 course the defendant must -- I'm sorry.

25 If identity is an issue, then of course the

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1 People must also prove beyond a reasonable doubt that
2 the defendant was, in fact, the one who committed the
3 offenses charged.

4 Jurors, under our system of law, the defendant
5 is not obligated to take the witness stand or to call
6 any witnesses.

7 Jurors, that means that the defendant's
8 attorney does not have to participate during jury
9 selection, and he does not have to make an opening
10 statement, whereas the District Attorney's Office, by
11 law, is required to make an opening statement, and
12 defense counsel does not have to object to a single
13 question that will be put to any of the witnesses, and
14 defense counsel does not have to sum up at the end of
15 the case. Because, again, the defense has no obligation
16 or burden to do anything whatsoever in this case.

17 Jurors, the defendant has the right to remain
18 silent and not testify. If he exercises the right to
19 remain silent, you're not to presume anything or
20 speculate as to why he did not testify. The fact that
21 he did not testify is not to enter into your
22 deliberation.

23 I know often times jurors will say to me --
24 prospective jurors will say to me that they would like
25 to hear from both sides and then they'll make up their

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1 minds. However, jurors, that is not the law. The law
2 says that the defendant is not obligated to testify or
3 to call any witnesses in this case.

4 Now, jurors, would you be able to, if the
5 defendant does not testify, hold the People to their
6 burden of proof of establishing guilt beyond a
7 reasonable doubt based solely on the evidence as
8 introduced by the People and the law as I give it to
9 you?

10 Can everyone do that?

11 (AFFIRMATIVE RESPONSE FROM JURORS)

12 THE COURT: Is there any juror who believes
13 that they would be unable to do that?

14 I would ask that you raise your hand high so
15 that we can explore that area together.

16 (NO HAND RAISED)

17 THE COURT: Again, I don't see any hands.

18 Jurors, please keep in mind that if the
19 defendant chooses to testify on his own behalf or to
20 call witnesses, this does not shift the burden of proof
21 from the District Attorney's Office. The District
22 Attorney's Office always has the burden to establish
23 guilt beyond a reasonable doubt.

24 Now, I will define reasonable doubt at the end
25 of the trial. But, in substance, a reasonable doubt is

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1 not a mere possibility or a guess or a whim or a
2 speculation outside of the evidence. Rather, jurors, it
3 is a doubt which you have after you have heard all of
4 the evidence in the case, when after such consideration
5 of all of the evidence in the case, either the presence
6 of certain facts or the absence of certain facts leaves
7 your mind in such a state of uncertainty that you're not
8 fully convinced of the defendant's guilt, and you're
9 also satisfied that in entertaining such a doubt you're
10 acting as a reasonable person should act in a matter of
11 this importance. Jurors, that sort of doubt which seems
12 reasonable to you is a reasonable doubt, of which the
13 defendant is entitled to the benefit of.

14 Now, jurors, can you find the defendant not
15 guilty if you have a reasonable doubt of his guilt? Can
16 everyone do that?

17 (AFFIRMATIVE RESPONSE FROM JURORS)

18 THE COURT: Is there any one of you who
19 believes that you would be unable to do that?

20 I would ask that you raise your hand high so
21 that we can explore that area together.

22 (HAND RAISED)

23 THE COURT: I see one hand. I see half a
24 hand.

25 I'll see the attorneys with the reporter.

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1 (The following occurred at sidebar out of the
2 hearing of the panel of prospective jurors:)

3 (At this time, a prospective juror approached
4 at sidebar)

5 THE COURT: Good morning.

6 May I have your card, please.

7 Your name, please?

8 PROSPECTIVE JUROR: Yerachmiel Beer.

9 THE COURT: Mr. Beer, if, in fact, at the end
10 of the case the People have not proven the defendant
11 guilty beyond a reasonable doubt, would be able to find
12 the defendant not guilty if you had a reasonable doubt
13 of his guilt?

14 PROSPECTIVE JUROR: That's why I only gave
15 half a hand. I'm not really sure. See, my father, as a
16 teenager, was walking in Prospect Park and one of his
17 friends was murdered. My father was a witness and he
18 testified and the guy got acquitted.

19 I grew up my whole life calling it the system
20 that let guilty people get away. There's no reason why
21 he got away. I'm not sure if I'll be able to find a
22 person not guilty. I always had that thing about people
23 getting away with the system.

24 THE COURT: Mr. Beer, let me say, if you're
25 selected as a juror, it would not be your decision as to

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1 whether, as you say, letting people out of the system or
2 in the system.

3 Basically, what you're saying is you've always
4 grown up with the fact that people who are guilty are
5 let go?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: My concern is if that is your
8 feelings, because of your personal feelings you might
9 allow your personal feelings to interfere with how you
10 judge the evidence in this case, and there's nothing
11 wrong with that, however, you need to let us know now.
12 Because the worse thing you can do is allow yourself to
13 be selected as a juror, and because you have these deep
14 feelings about certain issues, to allow those
15 deep-seated feelings to affect or influence how you
16 judge the evidence. That would be a travesty.

17 PROSPECTIVE JUROR: That's why I'm not sure.
18 I can't know.

19 THE COURT: Let me say this. If you hear
20 something that reminds you of your dad's situation, will
21 you start thinking about that, your dad's situation, and
22 allow that to affect how you judge the evidence in this
23 case?

24 PROSPECTIVE JUROR: Right now?

25 THE COURT: I'm saying if it's yes.

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1 PROSPECTIVE JUROR: Right now, I feel like
2 anger right now. I very, very upset, here's my chance
3 to get back.

4 THE COURT: No, no, that's not the kind of
5 feelings that either the People or the defense would
6 want, nor the Court.

7 Thank you, sir, for your honesty.

8 You'll remain outside until they give you
9 further instructions.

10 (PROSPECTIVE JUROR EXCUSED)

11 (The following occurred in open court in the
12 presence of the panel of prospective jurors:)

13 THE COURT: Certainly, jurors, you may not
14 allow the feeling or consider anything connected with
15 punishment, sympathy or prejudice in your verdict.

16 Jurors, is there any one of you who feels that
17 you could not eliminate the feeling of punishment,
18 sympathy or prejudice from your deliberation?

19 If you feel that way, I would ask you to raise
20 your hand high so that we can explore that area
21 together.

22 (HAND RAISED)

23 THE COURT: Okay. I see one hand.

24 (The following occurred at sidebar out of the
25 hearing of the panel of prospective jurors:)

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1 (At this time, a prospective juror approached
2 at sidebar)

3 THE COURT: Good morning.

4 May I have your card, please.

5 Your name, please?

6 PROSPECTIVE JUROR: Richard Bartow.

7 THE COURT: Mr. Bartow, I asked whether, in
8 fact, you could eliminate the feeling of punishment,
9 sympathy or prejudice from your deliberation, and you
10 raised your hand to say you could not eliminate that?

11 PROSPECTIVE JUROR: Yeah, I can't. I just
12 think it's impossible. Excuse me, I'm nervous. I just
13 think it's impossible to eliminate sympathy at all.

14 THE COURT: When you say "sympathy", you're
15 talking about sympathy for the defendant, who is on
16 trial?

17 PROSPECTIVE JUROR: For everyone. Mostly for
18 the defendant, I guess. I don't know. I guess for
19 everyone involved in the case. I don't think anyone
20 could eliminate sympathy.

21 THE COURT: Mr. Bartow, we all have sympathy.
22 If we didn't, we'd be robots.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: What I'm asking you is if you can
25 hold that sympathy in abeyance and not allow it to

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1 affect the evidence in this case. What we're looking
2 for, and I don't know whether you can do it, what we're
3 looking for is jurors who can listen to the evidence and
4 call it straight up and down as they see it without
5 being influenced by anything else. Okay?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: As I said, call it straight up and
8 down, without saying gee, I feel sorry for this person,
9 I feel sorry for that person. But, even if you say
10 that, not to allow it to affect your judgment. Gee, I
11 feel so bad, I'm going to decide this way because I feel
12 so bad, or I'm going to decide that way because I feel
13 so bad. We're looking for jurors who listen critically
14 to all of the evidence and then call it straight up and
15 down, as they say, without going to the left or to the
16 right, but straight up and down. I don't know whether
17 you can do it, but that's the kind of juror we're
18 looking for.

19 PROSPECTIVE JUROR: I don't know if I'm going
20 to be able to do that.

21 THE COURT: Okay.

22 Any questions?

23 MR. SIMONS: No questions.

24 MR. HALE: No.

25 THE COURT: Thank you, sir, for your honesty.

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1 You'll remain outside until you hear further
2 instructions.

3 (PROSPECTIVE JUROR EXCUSED)

4 (The following occurred in open court in the
5 presence of the panel of prospective jurors:)

6 THE COURT: Jurors, at the end of this case,
7 you will be called upon to make a factual judgment.
8 You're not here to make a moral judgment or to determine
9 whether or not Mr. Waiters is a good or a bad person.

10 Jurors, what is on trial in this courtroom is
11 what, if any, involvement Mr. Waiters had with the
12 incident which occurred on May 7, 2006.

13 Now, as I told you at the outset, you must
14 evaluate the testimony of every witness that will come
15 into this courtroom to testify, and you must then
16 determine whether the witnesses who do testify are
17 telling the truth and whether their testimony is
18 reliable testimony.

19 Jurors, you will have to listen carefully to
20 each witness and then determine whether you will accept
21 or reject their testimony, either in whole or in part.

22 Jurors, for example, a number of the People's
23 witnesses in this case will be police officers. They
24 will take the same oath to tell the truth as any other
25 witness in this case.

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1 Now, the fact that a witness is a police
2 officer or wears a police officer's uniform does not
3 make him or her any more or any less credible by the
4 fact that he or she is a police officer.

5 Now, jurors, is there any one of you who have
6 any feelings about police officers which would lead you
7 to give a police officer's testimony any greater or any
8 less weight than you would any other witness in this
9 case?

10 If you feel that way, I would ask that you
11 raise your hand so that we can explore that area
12 together.

13 (NO HAND RAISED)

14 THE COURT: Again, I don't see any hands.

15 Now, jurors, at the end of this case, I will
16 explain to you all of the law that will be applicable in
17 this particular case. Jurors, you must accept the law
18 from me, whether, in fact, you agree with the law or
19 not, or even if you believe that the law should be
20 something other than what it actually is. And you must
21 accept the law from me without hesitation and without
22 reservation.

23 Now, jurors, can you accept the law from me
24 without hesitation and without reservation? Can
25 everyone do that?

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1 (AFFIRMATIVE RESPONSE FROM JURORS)

2 THE COURT: Is there any juror, because of
3 religious, moral or other reasons, feel that you would
4 be unable to do that?

5 I would ask that you raise your hand high so
6 that we can explore that area together.

7 (NO HAND RAISED)

8 THE COURT: Again, I don't see any hands.

9 Jurors, what's going to happen at this point
10 is that names will be called to have a seat in the jury
11 pocks. I will be asking you questions from a
12 questionnaire.

13 Jurors, there are no right or wrong answers to
14 the questions that I ask.

15 Certainly, after I've asked you questions, I
16 will give the assistant district attorney, Mr. Hale, an
17 opportunity to ask you questions as well.

18 Thereafter, if defense counsel, Mr. Simons,
19 chooses, he may also ask you questions. But, again,
20 since the defense has no obligation or burden to do
21 anything whatsoever, defense counsel need not ask you
22 any questions.

23 Again, as I said, jurors, there's no right or
24 wrong answers to my questions or to their questions.
25 Because the worse thing that you can do is tell us an

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1 answer you think that we wish to hear and then during
2 the course of your deliberations you find that there is
3 something in your background that you have not told us
4 that will prevent you from being fair and impartial to
5 both sides.

6 Proceed.

7 THE CLERK: As I call your name, please take
8 the seat that I call in the jury box.

9 Falon Chavous.

10 F-A-L-O-N, C-H-A-V-O-U-S.

11 Seat number one.

12 Mazhar Al Hadid.

13 M-A-Z-H-A-R, A-L, H-A-D-I-D.

14 Seat number two.

15 Daniel Cipriano.

16 C-I-P-R-I-A-N-O.

17 Seat number three.

18 Victor Montiel.

19 M-O-N-T-I-E-L.

20 Seat number four.

21 Eleanor Cadle.

22 C-A-D-L-E.

23 Seat number five.

24 Alexander Podulke.

25 P-O-D-U-L-K-E.

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1 Seat number six.

2 Maurice Vannkeuren.

3 V-A-N-N-K-E-U-R-E-N.

4 Seat number seven, in the top row.

5 Thaer Abdelrasoul.

6 First name, T-H-A-E-R; last name,

7 A-B-D-E-L-R-A-S-O-U-L.

8 Seat number eight.

9 Robert Thomas, seat number nine.

10 Mark Rohrer.

11 R-O-H-R-E-R.

12 Seat number ten.

13 Orison Diaz.

14 O-R-I-S-O-N, D-I-A-Z.

15 Seat number eleven.

16 John Perkins.

17 P-E-R-K-I-N-S.

18 Seat number twelve.

19 Jill Meerpohl.

20 M-E-E-R-P-O-H-L.

21 Seat number thirteen, in the back row.

22 Juan Ynoa.

23 That's Y-N-O-A.

24 Seat number fourteen, in the front row.

25 Guerdy Oxilus.

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1 First name, G-U-E-R-D-Y; last name
2 O-X-I-L-U-S.

3 Seat number fifteen, in the back row.

4 Felix Onyenwe.

5 That's O-N-Y-E-N-W-E.

6 Seat number sixteen, in the front row.

7 Franklin Uribe.

8 U-R-I-B-E.

9 Seat number seventeen, in the back row.

10 Darryl Williams.

11 Seat number eighteen, in the front row.

12 Thomas Wegiel.

13 W-E-G-I-E-L.

14 Sir, take a seat in the front row just over
15 there. That will be seat number nineteen.

16 THE COURT: Jurors, I'm going to ask that you
17 please keep your voice up. You need to speak loud
18 enough so that we can hear your answers.

19 Also, jurors, myself and the attorneys will
20 make every effort to pronounce your name correctly. If
21 we do not, please tell us how to correctly pronounce
22 your name, and we'll try our best.

23 Certainly, we may not be as eloquent as your
24 are in saying it, but we will make every best effort to
25 do so.

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1 You don't have to read us the question, just
2 tell us the number and the answer to your question.
3 Number one, two, and go straight down with your answers.

4 Starting with question number one,
5 Miss Chavous?

6 PROSPECTIVE JUROR: My name is Falon Chavous.
7 23 years old.

8 I am born in New York City.

9 THE COURT: Can you just keep your voice up.
10 You're speaking so sweetly, I'm having difficulty
11 hearing you.

12 PROSPECTIVE JUROR: I was born in New York
13 City.

14 I live in -- I don't know what area it's
15 called, Starrett City.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: I'm an administrative
18 assistant.

19 I have my Bachelor's degree.

20 I'm single.

21 No kids.

22 There are two other members in my household,
23 they're teachers.

24 I've never served on any jury.

25 I don't have any vision or hearing problem.

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1 I have an uncle who is a C.O.

2 THE COURT: Anyone who works at a law office?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Number thirteen?

5 PROSPECTIVE JUROR: No, not that I know of.

6 Number fourteen, yeah, I have several members
7 of my family who have been arrested.

8 THE COURT: Can you tell us what they were
9 arrested for, and how the case was resolved.

10 PROSPECTIVE JUROR: I don't know specifically.
11 My parents was a drug conviction.

12 THE COURT: Okay.

13 Did that happen in Brooklyn or somewhere else?

14 PROSPECTIVE JUROR: Manhattan.

15 THE COURT: Anything about the way that they
16 were treated, that you remember, either by the police,
17 or the District Attorney's Office, that might affect
18 your ability to sit on this case and judge the evidence
19 fairly in this case, Miss Chavous?

20 PROSPECTIVE JUROR: I was a little girl, it
21 was about fifteen years ago, so I don't remember too
22 much about it.

23 THE COURT: So it would not affect your
24 judgment; is that correct?

25 PROSPECTIVE JUROR: No.

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1 THE COURT: Okay. Thank you.

2 Mr. Al Hadid?

3 PROSPECTIVE JUROR: My name is Mazhar Al

4 Hadid.

5 I am 29 years old.

6 I was born in Aleppo, Syria.

7 I live in the neighborhood of Williamsburg,

8 Brooklyn.

9 My occupation is a dentist.

10 I received my D.D.S. degree.

11 I am single.

12 I live with my girlfriend. She's a student.

13 I've never served on a jury before.

14 I do not have any serious vision or hearing

15 problems.

16 I do not know anybody who's had any legal

17 training or is employed at a law firm.

18 I do not know anyone in law enforcement.

19 None of my friends or family have been victims

20 of crime.

21 I have not been arrested, and neither have

22 members of my family been arrested.

23 THE COURT: Okay.

24 Mr. Cipriano?

25 PROSPECTIVE JUROR: My name is Daniel

1 Cipriano.

2 My age is 49.

3 My place of birth is Philippines.

4 I live in the neighborhood of Midwood,

5 Brooklyn.

6 My occupation is physical therapist.

7 I have three years in physical therapy and

8 four years in psychology.

9 I'm single.

10 Eight, I'm by myself here.

11 Number nine, no.

12 Number ten, no.

13 I have couple friends, two lawyers I know.

14 THE COURT: What kind of law do they practice?

15 PROSPECTIVE JUROR: Once in a while, it's more

16 on like the -- How would you say? It's more on the

17 concentration of adult, like the medical aspect.

18 THE COURT: Personal injury?

19 PROSPECTIVE JUROR: Yes.

20 Law enforcement, no.

21 Thirteen, no.

22 Fourteen, no.

23 THE COURT: Thank you.

24 Mr. Montiel?

25 PROSPECTIVE JUROR: My name is Victor Montiel.

JURY VOIR DIRE

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1 I'm 26 years old.

2 I was born in Brooklyn.

3 I live in the neighborhood of Midwood in
4 Brooklyn.

5 My occupation is, I am in sales. I work for
6 Coach.

7 High school.

8 I am single.

9 I live with my parents and two sisters. They
10 go to school. My parents, one works in a restaurant; my
11 mother does maintenance.

12 I have never served in a jury before.

13 I do not have any serious vision or hearing
14 problem.

15 No for eleven.

16 No for twelve.

17 No.

18 THE COURT: That's no to thirteen?

19 PROSPECTIVE JUROR: Yes, no.

20 And no to number fourteen.

21 THE COURT: Okay.

22 Miss Cadle?

23 PROSPECTIVE JUROR: My name is Eleanor Cadle.

24 My age is 66.

25 My place of birth is Belize, Central America.

JURY VOIR DIRE

353

1 I live in Bed Stuy.

2 My occupation, I am retired now.

3 THE COURT: What was your occupation before
4 you retired, Miss Cadle?

5 PROSPECTIVE JUROR: Teaching.

6 I have my Bachelor.

7 I am divorced.

8 I have six children.

9 THE COURT: Their ages and occupations,
10 Miss Cadle?

11 PROSPECTIVE JUROR: My oldest, he works
12 Transit. The second one work teaching. The third one,
13 she works also as a school aide. Number fourteen is the
14 fourth one. The fifth, she works with mentally retarded
15 children. And the sixth one, she's a housewife.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR: Number eight, the one who
18 live with me, she work with the mentally retarded
19 children.

20 Number nine, no.

21 Number ten, no, I don't have anything serious.
22 I just wear glasses.

23 Number eleven, my sister work with a law firm
24 on Wall Street. I forgot the name of it.

25 I don't have anyone involved in number twelve.

JURY VOIR DIRE

354

1 Number thirteen, yes.

2 Number fourteen, yes. He was arrested for
3 drugs.

4 THE COURT: Was that in Brooklyn or somewhere
5 else?

6 PROSPECTIVE JUROR: In Brooklyn.

7 THE COURT: What happened to your son's case?

8 PROSPECTIVE JUROR: He's in jail.

9 THE COURT: Anything about the way that he was
10 treated by the police or the District Attorney's Office
11 that might affect your ability to sit on this case and
12 judge the evidence fairly in this case, Miss Cadle?

13 PROSPECTIVE JUROR: No. Because, honestly, he
14 had it. So, he was arrested for it, and that's it.

15 THE COURT: You also mentioned that some
16 family members were victims of crime. Did somebody
17 happen to them?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Let me ask you this. When you say
20 you're divorced, what kind of work did your ex-spouse do
21 for a living?

22 PROSPECTIVE JUROR: Taxi.

23 THE COURT: Thank you.

24 Mr. Podulke?

25 PROSPECTIVE JUROR: My name is Alex Podulke.

JURY VOIR DIRE

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1 I am 37.

2 I was born in St. Paul, Minnesota.

3 I live in Williamsburg, Brooklyn.

4 My occupying is an actor.

5 I got a graduate degree, but it's not
6 supported by an undergraduate degree.

7 I am engaged. I live with my fiancée, who
8 works for a publishing company, and our roommate, who is
9 a producer for a Lincoln Center festival.

10 I've never been on a jury.

11 No vision or hearing problems.

12 I have an uncle and an aunt who are both
13 lawyers. My aunt was a criminal prosecution lawyer, and
14 my uncle was criminal defense for years. Then he became
15 a clerk for Supreme Court for the state of Minnesota,
16 and ended his career as, I guess, the head of the.
17 Appellate Court for the state of Minnesota.

18 I used to be a bartender for a bar that a lot
19 of cops went to.

20 My sister was the victim of a sex crime, and
21 they never caught the person.

22 THE COURT: Did that happen in Brooklyn or
23 back in Minnesota?

24 PROSPECTIVE JUROR: In Minnesota.

25 THE COURT: Anything about her experience,

JURY VOIR DIRE

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1 which has to be traumatic, that might affect your
2 ability to sit on this case and judge the evidence
3 fairly in this case?

4 PROSPECTIVE JUROR: No.

5 My little brother was arrested for drug
6 possession in Wyoming, and the charges were dropped.

7 THE COURT: Anything about your brother's
8 experience, how he was treated out there, that might
9 affect your ability to sit on this case and be fair in
10 this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Thank you.

13 Mr. Vannkeuren?

14 PROSPECTIVE JUROR: My name is Maurice
15 Vannkeuren.

16 I'm 21 years old.

17 My birth place is New York City.

18 The neighborhood I live in now is East New
19 York.

20 At the time, I don't have an occupation.

21 THE COURT: If you were employed, what were
22 you doing before?

23 PROSPECTIVE JUROR: It was in a youth
24 assistance for a boys and girls club.

25 I just got my high school diploma.

JURY VOIR DIRE

357

1 I have one child. I'm in a relationship.

2 THE COURT: How old is she?

3 PROSPECTIVE JUROR: Seven months.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR: My mother works for the
6 D.M.V. on Atlantic Avenue.

7 Number nine, no.

8 Number ten, no.

9 Eleven and twelve, no, also.

10 Thirteen, I had some family members and my
11 brother also has been arrested and convicted of crimes.
12 Gun possession.

13 THE COURT: Can you tell us about that,
14 Mr. Vannkeuren.

15 PROSPECTIVE JUROR: Well, I only know my
16 cousin being convicted of possession of a gun. But my
17 brother, he was arrested for drug possession.

18 THE COURT: Did that happen in Brooklyn or
19 somewhere else?

20 PROSPECTIVE JUROR: Yes, in Brooklyn.

21 THE COURT: Anything about the way they were
22 treated by the Police Department or the District
23 Attorney's Office that might affect your ability to sit
24 on this case and judge the evidence fairly in this case?

25 PROSPECTIVE JUROR: Well, with my cousin, I

JURY VOIR DIRE

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1 wasn't really around to know the whole story. But I
2 actually watched them arrest my brother and beat him
3 with the nightsticks and stuff while he was in
4 handcuffs.

5 I mean, I can try my best not to let that
6 affect my judgment, but I'm not sure that it wouldn't.

7 THE COURT: Let me say this. My concern as
8 the judge would be this: If, in fact, during the course
9 of a police officer's testimony something they said or
10 did reminded you of your brother's situation, my concern
11 would be whether you would start thinking about your
12 brother's situation and allow it to affect how you
13 evaluate the evidence in this case.

14 PROSPECTIVE JUROR: Well, it's possible that
15 it would bring back the site of me watching what they
16 did to my brother, but I'm not sure if it would keep me
17 from -- or affecting my judgment.

18 THE COURT: You also mentioned that you had
19 family members that were victims of crime? Did
20 something happen to them?

21 PROSPECTIVE JUROR: I'm not sure, I wasn't
22 there. I heard over the telephone talking with the rest
23 of my family.

24 THE COURT: Okay. Thank you.

25 Mr. Abdelrasoul?

JURY VOIR DIRE

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1 PROSPECTIVE JUROR: My name is Thaer
2 Abdelrasoul.

3 I am 29 years of age.

4 I was born in Jerusalem, Palestine.

5 I live in Bay Ridge, Brooklyn.

6 I am currently a student. I am in my last
7 semester in college.

8 I am single, with no kids.

9 My father is the operator of a supermarket.

10 I have never served on a jury before.

11 I have no serious vision or hearing problems.

12 I do have a cousin who works for the U.N. as I
13 think a lawyer. And a few friends who work at law
14 firms, too.

15 I have maybe five, six friends who work in law
16 enforcement.

17 I have never been a victim of a crime, or any
18 friend.

19 I do have a younger brother who has been
20 arrested for graffiti a couple years ago.

21 THE COURT: What happened with his case?

22 PROSPECTIVE JUROR: He was a minor, so I guess
23 it was dropped or sealed.

24 THE COURT: Anything about the way that your
25 brother was treated by the police or the District

JURY VOIR DIRE

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1 Attorney's Office that might affect your ability to sit
2 on this case?

3 PROSPECTIVE JUROR: I may have a similar
4 problem as him. He wasn't treated right. He was a
5 minor and he was kept for a couple of nights until he
6 saw a judge. So, I don't think it was correct. I hope
7 it won't affect me.

8 THE COURT: Okay. What part of Brooklyn do
9 you reside in?

10 PROSPECTIVE JUROR: In Bay Ridge.

11 THE COURT: Okay.

12 Mr. Thomas?

13 PROSPECTIVE JUROR: My name is Robert Thomas.
14 I am 66.

15 I was born in Wilmington, North Carolina.

16 I live in Cypress Hills, Brooklyn.

17 I am retired.

18 I have a year of college.

19 I'm married for 44 years.

20 I have five children. The oldest is 43, and
21 the youngest is 38.

22 THE COURT: What do they do for a living?

23 PROSPECTIVE JUROR: The oldest one is an
24 actuary with an insurance company. The second one is a
25 truck driver. The other two, I'm not familiar with

JURY VOIR DIRE

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1 because they live out of state. And my daughter is an
2 emergency room R.N.

3 I served on a civil jury five years ago. I
4 did not deliberate. I was taken ill, so I was excused.

5 Ten, no.

6 Eleven, no.

7 Twelve no.

8 Thirteen, no.

9 Fourteen, no.

10 THE COURT: You mentioned that you're retired.
11 What kind of work did you do, Mr. Thomas, before you
12 retired?

13 PROSPECTIVE JUROR: I'd say I was a jack of
14 all trades. I did everything. The last job I had I was
15 a bartender. But I've had hospital training and so on.

16 THE COURT: Your wife, what does she do for a
17 living? And if she's retired, what did she do for a
18 living before she retired?

19 PROSPECTIVE JUROR: She mostly stayed at home.
20 But, in her later years, she got a job as a clerk.
21 She's also retired now, too.

22 THE COURT: Thank you.

23 Mr. Rohrer?

24 PROSPECTIVE JUROR: My name is Mark Rohrer.
25 I'm 27.

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1 I was born in Norfolk, Virginia.

2 I live in Prospect Heights, Brooklyn.

3 I'm an animator.

4 I have a college degree.

5 I'm single. I live alone.

6 I've never been on a jury.

7 I have no vision or hearing problems.

8 I have several friends who are lawyers, and a
9 sister who is a lawyer.

10 THE COURT: What kind of law do they practice,
11 if you know?

12 PROSPECTIVE JUROR: One is an A.D.A. in Family
13 Court here in the city. Another is a criminal defense
14 attorney. My sister is a real estate lawyer back in
15 Virginia.

16 I don't know anybody in law enforcement.

17 I had a sister who was the victim of a violent
18 crime.

19 Nobody in my family, I don't know anybody
20 who's been arrested.

21 THE COURT: You say your sister was the victim
22 of a violent crime?

23 PROSPECTIVE JUROR: Yes. This was in Fort
24 Collins, Colorado. She had a stalker, and later it was
25 a sexual battery and assault.

JURY VOIR DIRE

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1 THE COURT: Was anyone arrested as a result of
2 that?

3 PROSPECTIVE JUROR: Initially, the D.A.
4 refused prosecute the stalking, and he eventually broke
5 into her apartment. And now the trial is ongoing. It
6 has been for awhile.

7 THE COURT: Let me ask you this. Anything
8 about that experience, either the way your sister was
9 treated by the police there or the District Attorney's
10 Office there that might affect your judgment --

11 PROSPECTIVE JUROR: The police were very
12 helpful. The D.A. situation was unfortunate. Later,
13 there was an election, he got replaced, and the new D.A.
14 is prosecuting the case. We had pretty negative
15 associations with that first D.A. But, since then, it's
16 been pretty good.

17 THE COURT: You're not going to hold it
18 against the D.A. here?

19 PROSPECTIVE JUROR: The New York D.A., no.

20 THE COURT: Okay.

21 Mr. Diaz?

22 PROSPECTIVE JUROR: My name is Orison F. Diaz.
23 I am 52.

24 I was born in El Salvador.

25 I live in the neighborhood of Brooklyn

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1 Heights.

2 My occupation is the volunteer of the Jehovah
3 Witnesses headquarters.

4 I have a college degree.

5 I'm married. My wife is also a volunteer as
6 me.

7 I served in a civil jury five years ago. I
8 was elected as a alternate juror. I never was involved
9 in the deliberation.

10 Ten is no.

11 Eleven is no.

12 Twelve is yes.

13 From my wife side, I have -- her nephew is a
14 Correction officer.

15 Thirteen is no.

16 Fourteen is no.

17 THE COURT: Thank you.

18 Mr. Perkins?

19 PROSPECTIVE JUROR: Yes, ma'am.

20 My name is John Perkins.

21 My age is 67.

22 My place of birth is Jamaica, West Indies.

23 I live in the neighborhood of Canarsie,
24 Brooklyn.

25 My occupation is really welder, but I also do

JURY VOIR DIRE

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1 work up to this year, February 1st, I was working in a
2 bank as a vault attendant.

3 I do a lot of religious studies. I got a
4 diploma in religious education and other religious
5 studies.

6 I am married for 32 years. I live with my
7 wife and my daughter.

8 Both my wife and my daughter work as nurses.

9 I served in all three, in the Grand Jury as
10 well here, and also in the civil jury.

11 THE COURT: How long ago was the civil case?

12 PROSPECTIVE JUROR: The civil case was like
13 about maybe '02.

14 THE COURT: '02?

15 PROSPECTIVE JUROR: Because then it was two
16 years apart.

17 THE COURT: Okay.

18 Without telling me what it was, did you reach
19 a verdict on the civil case, if you can recall?

20 PROSPECTIVE JUROR: It's so many cases.
21 Sometimes three, four cases.

22 THE COURT: You're talking about the Grand
23 Jury.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Okay.

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1 PROSPECTIVE JUROR: Neither hearing nor vision
2 problem.

3 My brother was a detective back in Jamaica for
4 some years, also a school teacher.

5 Number thirteen, no.

6 Number fourteen, no.

7 THE COURT: Thank you.

8 Miss Meerpohl?

9 PROSPECTIVE JUROR: My name is Jill Meerpohl.
10 I just turned 28.

11 I'm from Naples, Florida.

12 I live in DUMBO.

13 I'm the sales director in the fashion
14 industry.

15 I have a Bachelor's degree.

16 I'm single.

17 My boyfriend is a chef.

18 I've never served.

19 I don't have any vision or hearing problems.

20 I have a friend in Philly that's trying to
21 pass the bar. That's about it.

22 I don't know anybody in law enforcement.

23 No to thirteen.

24 For fourteen, my brother was arrested for
25 D.U.I. in Florida, and he served months. Now he's on

JURY VOIR DIRE

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1 probation.

2 THE COURT: Did that happen in New York or
3 somewhere else?

4 PROSPECTIVE JUROR: Florida.

5 THE COURT: Anything about the way your
6 brother was treated by the police officers in Florida or
7 the District Attorney's Office there that might affect
8 your ability to sit on this particular case?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Thank you.

11 Mr. Ynoa?

12 PROSPECTIVE JUROR: My name is Juan Ynoa.

13 My age is almost 50.

14 My place or birth was in Dominican Republic.

15 I live in Bushwick.

16 My occupation is porter.

17 I did G.E.D. in this country. In my country
18 what they call twelve.

19 I'm divorced.

20 I have four children. One is 2, another is 4,
21 one is 22, the other 23.

22 I live with my father and my mother.

23 Number nine is no.

24 Ten is no.

25 Eleven is no.

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1 Twelve is no.

2 Thirteen is no.

3 Fourteen is no.

4 THE COURT: You said that you're divorced.
5 What kind of work did your wife do for a living before
6 you were divorced, sir?

7 PROSPECTIVE JUROR: She work in a bank for
8 Citi Bank.

9 THE COURT: I didn't hear what your employment
10 was. What do you do for a living?

11 PROSPECTIVE JUROR: Porter.

12 THE COURT: A porter?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Thank you.

15 Miss Oxilus?

16 PROSPECTIVE JUROR: My name is Guerdy Oxilus.
17 My age is 51.

18 My place of birth is Haiti.

19 I live in the neighborhood of Bushwick.

20 My occupation is director at a day care
21 center.

22 I have my Master's degree.

23 I was divorced, but remarried.

24 I have three children, ages 27, 24, and 23.

25 My first son work at Best Buy. My second son

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1 is at home. And my daughter is in Africa.

2 I never served.

3 I'm wearing glasses.

4 Number nine, I never served.

5 Number ten is no.

6 Number eleven is no.

7 Number twelve is no.

8 Number thirteen is no.

9 My first husband was arrested for abusing me.

10 THE COURT: Anything about that experience
11 with your first husband, either the way he was treated
12 by the police or the District Attorney's Office that
13 might affect your ability to sit on this particular
14 case, Mr. Oxilus?

15 PROSPECTIVE JUROR: No. But I did not like
16 the way he was treating me.

17 THE COURT: You didn't like the way he was
18 treating you. As long as you're not going to hold it
19 against nobody else.

20 PROSPECTIVE JUROR: No.

21 THE COURT: You mentioned that you remarried.
22 What is the occupation of your current husband? What
23 does he do for a living?

24 PROSPECTIVE JUROR: He likes to travel and do
25 commerce, back and forth from here.

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1 THE COURT: Thank you.

2 Mr. Onyenwe?

3 PROSPECTIVE JUROR: Yes. My name is Felix

4 Onyenwe.

5 My age is 65.

6 My place of birth is Nigeria.

7 I live in the neighborhood of Crown Heights in
8 Brooklyn.

9 My occupation is public and health advisor in
10 the Department of Health.

11 I have a Master's degree here.

12 I'm married.

13 I have two children. My wife is a housewife,
14 but was a teacher. My daughter is thirty, a nurse. My
15 son, 28, he's a student and works also for the
16 Department of Human Resources.

17 I haven't served in the jury.

18 I don't have a vision problem.

19 Extended family member is a police officer
20 here. That's a nephew. Extended family.

21 THE COURT: Anyone that is involved with legal
22 training, such as an attorney or anyone else?

23 PROSPECTIVE JUROR: No.

24 Number fourteen, no.

25 THE COURT: And number thirteen?

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1 PROSPECTIVE JUROR: No.

2 THE COURT: Okay. Thank you.

3 Mr. Uribe?

4 PROSPECTIVE JUROR: My name is Franklin Uribe.

5 My age is 19.

6 I was born in Brooklyn.

7 I live in Kensington.

8 My occupation is assistant manager.

9 I am in college right now.

10 I'm single.

11 I live with my parents.

12 My dad works in a textile factory, and my
13 mother is a clerk.

14 I have never served.

15 Ten is no.

16 Eleven is no.

17 My brother-in-law is a narcotics detective.

18 Thirteen is no.

19 Fourteen is no.

20 THE COURT: Thank you. Mr. Uribe.

21 Mr. Williams?

22 PROSPECTIVE JUROR: My name is Darryl
23 Williams.

24 I'm 44 years old.

25 Place of birth, Brooklyn.

JURY VOIR DIRE

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1 I live in the neighborhood of Canarsie.

2 Occupation is unemployed veteran.

3 As far as school, I got some college. I
4 finished high school.

5 I'm married, separated.

6 I got a 17-year-old daughter.

7 I live alone right now.

8 I've never served.

9 I don't have any hearing or vision problems.

10 I don't know anyone in -- Eleven is no.

11 Law enforcement, I have a uncle, retired
12 lieutenant. My brother is a school safety agent.

13 Thirteen is no.

14 Fourteen is no.

15 THE COURT: Thank you.

16 I know you said you're an unemployed vet.

17 PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: What were you doing in between?

19 PROSPECTIVE JUROR: Before the military?

20 THE COURT: Right.

21 PROSPECTIVE JUROR: Security.

22 THE COURT: Thank you.

23 Mr. Wegiel?

24 PROSPECTIVE JUROR: Yes. My name is Thomas
25 Wegiel.

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1 I'm 34 years old.

2 Brooklyn.

3 Number four is Greenpoint.

4 Number five is computer technician.

5 Number six is high school.

6 Number seven is married.

7 Two children--one is 6 and one is 10.

8 My wife works at a bank.

9 I served on a criminal jury, and this was
10 about six or seven years ago. I did deliberate and
11 reach a verdict.

12 I don't have any serious vision or hearing
13 problems.

14 Number eleven is no.

15 Number twelve, I do on occasion do work at
16 police precincts, but it's a work relationship, not
17 personal.

18 Thirteen is no.

19 Fourteen, my wife's brother was arrested for
20 a D.U.I.

21 THE COURT: How long ago was that?

22 PROSPECTIVE JUROR: Four or five years ago.

23 THE COURT: Did that happen in Brooklyn or
24 somewhere else?

25 PROSPECTIVE JUROR: Queens, I think.

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1 THE COURT: Anything about the way your
2 brother-in-law was treated by the police or the District
3 Attorney's Office that might affect your ability to sit
4 on this case and be fair and impartial in this
5 particular case?

6 PROSPECTIVE JUROR: Honestly, no, because he
7 barely even mentioned anything about it.

8 THE COURT: Okay. Thank you.

9 At this point, I will give the assistant
10 district attorney an opportunity to ask you questions.

11 Jurors, there are no right or wrong answers,
12 only truthful answers.

13 MR. HALE: Thank you, your Honor.

14 Good afternoon, ladies and gentlemen.

15 Again, my name is Mark Hale. I will be
16 prosecuting this case for the People of the State of New
17 York.

18 What is important here in the brief time that
19 we have is to get to know you a little bit so that we
20 could make a decision about whether one or more of you
21 would be appropriate jurors for our particular case.

22 In order to do that we need to hear your
23 voices and not just hear mine. So, if I ask you a
24 question, either individually or collectively, can you
25 all answer up?

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1 (AFFIRMATIVE RESPONSE FROM JURORS)

2 MR. HALE: That's a pretty lousy start.

3 Can we all answer up when I ask a question?

4 (AFFIRMATIVE RESPONSE FROM JURORS)

5 MR. HALE: Very good.

6 You've heard that this is a case -- what
7 little you have heard about this case involves murder
8 and the injury of a number of people during a shooting
9 incident which Mr. Waiters is accused of.

10 There were a lot of people, and you saw them,
11 who got in line just because of the nature of the
12 charges and the fact that a child was one of the
13 victims, the victim who was killed in this case, that
14 they couldn't be fair.

15 Now, I just need to know at the outset, right
16 now here, you've had some time to reflect on this, the
17 fact that the nature of the charge is murder, it's a
18 serious charge, and the fact that there was a child who
19 was a victim, and there are other victims, does that
20 cause anyone to think that you could not be fair and
21 impartial in deciding this case?

22 Let me just say. We've used that term a lot,
23 fair and impartial. But what that means is not bringing
24 in any preconceived ideas, but literally starting with a
25 blank slate and saying okay, I'm going to make my

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1 decision upon not what I heard at the barber shop, not
2 what I saw on TV, but on what I hear in the courtroom.

3 Is there anybody that thinks they would be
4 unable to do that, based upon the nature of the charges
5 or the nature of the victims in this case? Anybody at
6 all?

7 (NO RESPONSE)

8 MR. HALE: Okay.

9 A very important point. Sympathy, you know,
10 whether you feel it or you won't feel it, I expect that
11 during this trial you will. It's a human emotion. It's
12 very important to be able to put that aside and decide
13 this case I guess it would be with your head and not
14 with your heart.

15 Ma'am, do you think you would have any problem
16 with that at all?

17 PROSPECTIVE JUROR: No problem.

18 MR. HALE: Sir, how about you?

19 PROSPECTIVE JUROR: No.

20 MR. HALE: What we're talking about is sort of
21 a very rational thing here. You know, there are people
22 who make decisions based upon how they feel about
23 something, out of their emotions.

24 A lot of us know when people make decisions
25 like that, they're not always right. But what we need

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1 for you here is to be able to say okay, let me think
2 this through. Yes, you are going to be hearing things
3 that you don't normally hear and that are unpleasant.
4 I'm going to tell you that right now. You're going to
5 hear details of injuries, autopsies, things of that
6 nature. They're disquieting.

7 Sir, can you look at it and see the purpose
8 for which those are put in? And, again, it's a legal
9 purpose. It's part of proving the case. You have to
10 prove cause of death and the nature of injuries, things
11 like that. It's not to meant to inflame you or anything
12 like that. You understand that?

13 PROSPECTIVE JUROR: Yes.

14 MR. HALE: Do you think you would be able to
15 take it for why it's offered?

16 PROSPECTIVE JUROR: Yes.

17 MR. HALE: I do not expect, I do not expect
18 that you're going to be shown anything visually graphic.
19 You're going to hear things that perhaps are so.

20 Is there anyone here who thinks, because of
21 your own constitution, that they wouldn't be able to
22 handle those sort of details about things, especially in
23 relation to a child?

24 Is everybody okay with that?

25 (AFFIRMATIVE RESPONSE FROM JURORS)

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1 MR. HALE: Okay.

2 The police. We talked a little bit about the
3 two of you. I know you had the situation with both of
4 your siblings, where they were arrested. The police in
5 your case were sort of extreme in terms of hitting and
6 stuff like that.

7 PROSPECTIVE JUROR: Yes.

8 MR. HALE: In your case, you felt he was a
9 young guy, they kept him in jail for a couple of days
10 that you felt rather needless over a graffiti thing;
11 right?

12 PROSPECTIVE JUROR: Yes.

13 MR. HALE: Now, there's a lot of police in the
14 world, a lot of police in New York. Some will testify
15 here. I don't think it's going to be a case that's
16 tremendously dependent upon the police.

17 My question to either of you is: Do you think
18 that when you look at a police officer and they come in
19 here, are you going to be able to give them a fair shake
20 in terms of saying okay, I know you're a cop, and you've
21 had this bad experience with police officers, but I
22 don't know who you are and you weren't involved in the
23 situation with either of your brothers, I'll listen to
24 what you have to say and I'll decide whether I believe
25 you on what I hear and not because of what you do?

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1 PROSPECTIVE JUROR: Yes.

2 MR. HALE: Do you think you would be able to
3 do that?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Is that a yes?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Okay.

8 MR. HALE: How about you, sir?

9 PROSPECTIVE JUROR: Yes.

10 MR. HALE: This goes for everybody else,
11 because it's not just personal experiences that people
12 have with the police. I mean, it's something that's the
13 subject matter of newspaper articles that we see a lot,
14 television reports, fictional TV series.

15 You know, we start getting an idea in our
16 heads and thinking well, perhaps all cops are this.

17 I mean, I watch the cop shows on TV. Who else
18 does? Come on.

19 (HANDS RAISED)

20 MR. HALE: There we go.

21 You know, they couldn't sell things on TV if
22 it wasn't for the police shows. They have all the
23 commercials in there.

24 Sir, which one do you watch?

25 PROSPECTIVE JUROR: C.S.I., Most Wanted, Cops.

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1 MR. HALE: Oh, you hit them all.

2 PROSPECTIVE JUROR: Yes.

3 MR. HALE: Well, the reason that they're all
4 on is because they're very popular. But, again, you
5 know, if you said hey, on C.S.I. Miami last night David
6 Caruso did this, and, you know, I bet that they do that
7 in real life in a courtroom.

8 Is there anything about that that's going to
9 affect you here?

10 PROSPECTIVE JUROR: Oh, no. No way.

11 MR. HALE: Of course not.

12 PROSPECTIVE JUROR: No way.

13 MR. HALE: You're right. Because, again,
14 that's somebody's idea, it's theatrics and stuff.

15 The judge made a point to another group
16 yesterday and said that you never see on TV the part
17 about them picking a jury. That's because it's too damn
18 boring. I mean, they couldn't sell anything. This is
19 reality. You're not going to take anything from that;
20 right?

21 PROSPECTIVE JUROR: No.

22 MR. HALE: Okay.

23 Can all of you agree with me that it would be
24 wrong to make your decision in here based upon anything
25 that you've ever derived from a television, newspaper or

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1 anything like that? Can you all promise me that you
2 will not let those influence your decision in here?

3 (AFFIRMATIVE RESPONSE FROM JURORS)

4 MR. HALE: Can you do that?

5 (AFFIRMATIVE RESPONSE FROM JURORS)

6 MR. HALE: And that includes real-life news
7 accounts. Specifically, with regard to police officers.

8 I'll be the first person to tell you that
9 among the -- I think an article I saw the other day
10 said 37,000 police officers. That among the 37,000
11 police officers, that there is a percentage of them who
12 are heroes, there is a percentage of them who are bums,
13 and there's a lot of people in between. Okay?

14 Any group that big, it would be hard to say
15 all police officers are fill in the blank.

16 You'd agree with that, wouldn't you?

17 PROSPECTIVE JUROR: Yes.

18 MR. HALE: If you read an article that a cop
19 did the most heroic thing in the whole world, and it's
20 terrific, apple pie and mom and everything else, that
21 wouldn't tell you that the other 36,999 are all great
22 guys, would it?

23 PROSPECTIVE JUROR: What do you mean?

24 MR. HALE: I mean you can't judge all them by
25 the acts of one.

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1 PROSPECTIVE JUROR: Of course not.

2 MR. HALE: The same thing if one of them ends
3 up being an absolute criminal.

4 PROSPECTIVE JUROR: Of course not.

5 MR. HALE: Right. You can't do that.
6 Right?

7 PROSPECTIVE JUROR: Yes.

8 MR. HALE: Again, all of you would give them a
9 fair shake and look at them as individuals?

10 (AFFIRMATIVE RESPONSE FROM JURORS)

11 MR. HALE: Can you do that, sir?

12 PROSPECTIVE JUROR: Yes.

13 MR. HALE: Any problem with that whatsoever?

14 PROSPECTIVE JUROR: No.

15 MR. HALE: Okay.

16 It may come about -- Well, let me ask you
17 this. Do any of you have any involvement either
18 personally or with somebody in your family, somebody
19 close to you, with psychiatric health professionals or
20 issues with psychiatry or psychology?

21 PROSPECTIVE JUROR: I work with them.

22 MR. HALE: You work with that. Okay.
23 Anybody else?

24 PROSPECTIVE JUROR: What do you mean, issues
25 with --

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1 MR. HALE: It might even be a friend that is
2 afflicted with a psychiatric disturbance, a friend that
3 you know that works with the either the mentally
4 challenged or the mentally disturbed. Anything like
5 that.

6 PROSPECTIVE JUROR: I have my sister, she's
7 kind of sick.

8 MR. HALE: She's kind of sick. Okay.

9 The reason I asked, this goes for you, sir,
10 because you have some training.

11 PROSPECTIVE JUROR: My sister is suffering
12 from schizophrenia.

13 MR. HALE: All right. It may come about
14 during the course of this trial, this I can't guarantee,
15 but it may come about that there will be an issue that
16 has to do with mental illness or mental retardation, and
17 that you would hear a witness, a professional, either a
18 PhD or a medical doctor talking about these psychiatric
19 or mental issues.

20 My question to you, who has some direct
21 involvement here, do you think that your personal
22 experiences would make it difficult for you to judge a
23 situation where somebody's state of mind in terms of
24 mental disease or a mental defect comes into play?

25 Do you think you would have any problem with

1 that at all, sir?

2 PROSPECTIVE JUROR: No.

3 MR. HALE: Ma'am, how about your situation
4 with your sister?

5 PROSPECTIVE JUROR: It is a very difficult
6 situation.

7 MR. HALE: It is a very difficult situation.

8 Do you think that if you --

9 I'm trying to think how to phrase it.

10 Do you think that that would cause you to have
11 more sympathy or more understanding or maybe less
12 tolerance for a claim that somebody is or is not
13 mentally ill or mentally retarded?

14 PROSPECTIVE JUROR: Because of my background
15 also, I come from Haiti, and sometimes we don't really
16 believe in mental sickness.

17 MR. HALE: See, that's something else. I'll
18 let you think about that for a minute because I'm going
19 to ask all the rest of the people here.

20 There's a lot of people that have opinions
21 about, you know, mental health and mental health
22 professionals. There are some people that think that
23 therapy is a great thing, that everybody should be in
24 therapy and they should be in therapy five times a week.
25 There's other people at the other end that think that

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1 psychiatry and psychology are, you know, a bunch of
2 bunk, and there's all sort of, like you were talking
3 about, that nobody really believes in that or they think
4 there's a religious component to it or something else
5 like that.

6 Is there anybody here that has such strong
7 opinions about psychiatry and psychology that they would
8 not be able to look at issues like that, if they come up
9 here, and look at the professionals who deal with those
10 issues and do so with an open mind?

11 Any problem with that at all, sir?

12 PROSPECTIVE JUROR: No, not one way or the
13 other.

14 MR. HALE: Let me just ask you about experts
15 in general, because you're definitely going to hear from
16 experts that have to do with the autopsy of the victim
17 that was killed and other doctors that treated injuries
18 of other people that were shot in this case.

19 Do you think that anybody just because that
20 they have "Doctor" or "MD", I'm not knocking dentists or
21 anything, do you think that automatically their opinion
22 is one that you should accept or are you going to be
23 able to look at that critically?

24 PROSPECTIVE JUROR: Are you saying that would
25 I tend to believe testimony from someone that's like a

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1 professional or something?

2 MR. HALE: Yes. Would you automatically
3 believe it?

4 PROSPECTIVE JUROR: No.

5 MR. HALE: The reason I ask, I grew up -- my
6 parents were of that generation where, you know, if the
7 family doctor said something, it was gospel, no matter
8 what happened. But what we're asking all of you to do
9 is to be able to look --

10 You're close to that generation, so you know
11 what I'm talking about.

12 PROSPECTIVE JUROR: Yes.

13 MR. HALE: You know, you look at these people
14 critically, you look at all the witnesses critically,
15 whether it's a doctor, MD, a doctor of PhD, police
16 officers, whatever, that you don't accept or don't
17 reject their testimony just because of what they are.

18 Can all of you keep an open mind and just
19 listen to that?

20 (AFFIRMATIVE RESPONSE FROM JURORS)

21 MR. HALE: No problem with that at all, ma'am?

22 PROSPECTIVE JUROR: No.

23 MR. HALE: Okay.

24 Just a different area. We talked about
25 testimony, whether you accept it or don't accept it.

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1 The judge said one of the most important things for a
2 jury is the notion of deliberating.

3 Ma'am, I could ask you. You could look around
4 the group of people who are here and say, you know,
5 except for the idea that you all answered your jury
6 notice at the same time, you might not have any occasion
7 to have any interest in ever having a conversation or
8 interaction with any of these people.

9 PROSPECTIVE JUROR: No.

10 MR. HALE: It's a completely random thing.

11 PROSPECTIVE JUROR: Yes.

12 MR. HALE: Do you think that you would have
13 any difficulty in terms of talking about the important
14 issues in this case? That is, listening to what these
15 people have to say, and then accepting it or adding to
16 it, or adding your two cents into it?

17 Do you think you would have any problem with
18 that at all?

19 PROSPECTIVE JUROR: I don't think so.

20 MR. HALE: That goes too in terms of life
21 experience or anything else. For instance, this
22 gentleman who is sitting here next to you, who may be, I
23 don't know, a year or two older than you. You might
24 well be in a position to say here's a man who has life
25 experience and everything, and he thinks this way, you

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1 know, perhaps he's right and I'm wrong.

2 Do you think that's an automatic?

3 PROSPECTIVE JUROR: I don't think it's
4 automatic.

5 MR. HALE: No. And you're right.

6 You know something? All of you, your life
7 experience and your education or whatever, from the
8 dentist here, who goes by doctor, it doesn't make him
9 any more qualified to have an opinion on this case than
10 any of the rest of you.

11 Can you all accept that in terms of talking to
12 one another?

13 (AFFIRMATIVE RESPONSE FROM JURORS)

14 MR. HALE: Okay.

15 When you do so, you understand that all of
16 your opinions, regardless of your background, regardless
17 of your income, regardless of what education that you've
18 achieved, it's all the same. Everybody's opinion is
19 just as good as everybody else's, as long as your
20 opinion is based on the evidence and not speculating on
21 something outside of it.

22 You all understand that?

23 (AFFIRMATIVE RESPONSE FROM JURORS)

24 MR. HALE: The young lady, you can listen to
25 what she has to say?

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1 PROSPECTIVE JUROR: Yes.

2 MR. HALE: Ladies and gentlemen, my time is
3 very short here, so I'm going to ask you all generally
4 if there's anything that we didn't touch on, if you're
5 sitting there and you're thinking to yourself, because
6 you know yourself better than I'm ever going to get to
7 know you in fifteen or twenty minutes, is there anything
8 that you think would affect your ability to be a fair
9 and impartial juror in this case, decide this important
10 matter only on what you hear here in court in terms of
11 the evidence from the witness stand and the law from the
12 Court?

13 Anybody have any problem with that whatsoever?

14 (NEGATIVE RESPONSE FROM JURORS)

15 MR. HALE: Thanks for your time, folks.

16 THE COURT: Certainly, jurors, I will remind
17 you that the defense has no obligation or burden to do
18 anything whatsoever in this case, so certainly defense
19 counsel, Mr. Simons, need not ask you any questions.

20 That being said, do you wish to inquire,
21 Mr. Simons?

22 MR. SIMONS: Yes.

23 Good afternoon, ladies and gentlemen.

24 I'm not going to be too long. I'm going to
25 try to talk to you by stating your name. I apologize, I

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1 know I'm going to get it wrong, but I'm going to try.

2 The other thing is, if you have anything you
3 want to say to me, this is the time to say it. Because
4 once you are selected, if you are selected on the jury,
5 you really won't be able to ask any questions, say
6 anything, until the case is finished.

7 Let me ask, Mr. Cipriano.

8 PROSPECTIVE JUROR: Yes.

9 MR. SIMONS: Is that right?

10 PROSPECTIVE JUROR: Yes.

11 MR. SIMONS: I'm asking you the question, but
12 it's for everybody. But I'll direct it to you.

13 Have you heard anything so far, since you've
14 been in this courtroom, that would help you decide this
15 case?

16 PROSPECTIVE JUROR: (No Response)

17 MR. SIMONS: No. It's not a trick question.

18 PROSPECTIVE JUROR: I'm trying to think about
19 your question.

20 MR. SIMONS: There's nothing to think about
21 because you haven't heard anything; right?

22 PROSPECTIVE JUROR: Right.

23 MR. SIMONS: Does everyone here agree with
24 that?

25 (AFFIRMATIVE RESPONSE FROM JURORS)

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1 MR. SIMONS: Okay. There's no problem with
2 that.

3 Let me ask you, since I'm talking to you. You
4 said you're a physical therapist but you also work with
5 psychology.

6 PROSPECTIVE JUROR: Yes. My concentration
7 right now is physically and mentally handicapped
8 individuals. It's a mixed population. We have
9 psychiatric cases in our facility. From that, we work
10 with developmentally disabled individuals.

11 Now they're mixing our facility with
12 psychiatric cases.

13 MR. SIMONS: Okay.

14 Let me just move on to Miss Cadle, is it?

15 PROSPECTIVE JUROR: Yes.

16 MR. SIMONS: I believe you mentioned that your
17 son was arrested, and he's in jail.

18 PROSPECTIVE JUROR: Yes.

19 MR. SIMONS: And he's in jail now.

20 PROSPECTIVE JUROR: Yes.

21 MR. SIMONS: The fact that your son is in
22 jail, do you believe that will affect how you decide
23 this case in any way?

24 PROSPECTIVE JUROR: No.

25 MR. SIMONS: Okay. No, you would be able to

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1 separate the two, no problem?

2 PROSPECTIVE JUROR: Because it's two separate
3 things. How could I compare it?

4 MR. SIMONS: I don't know if you stated, he
5 was arrested in Brooklyn?

6 PROSPECTIVE JUROR: Yes.

7 MR. SIMONS: You might have stated this
8 before, and I apologize if I'm asking again, you had no
9 problem the way he was being treated by the prosecutor
10 or the police or the court system?

11 PROSPECTIVE JUROR: No.

12 MR. SIMONS: Let me ask Miss Chavous.

13 PROSPECTIVE JUROR: Yes.

14 MR. SIMONS: Now, you mentioned that -- Who
15 did you say, your parents were convicted of drugs a long
16 time ago?

17 PROSPECTIVE JUROR: Yes.

18 MR. SIMONS: How long ago was that?

19 PROSPECTIVE JUROR: I was five, six years old
20 about, so seventeen years ago.

21 THE COURT: Can you just keep your voice up,
22 please.

23 PROSPECTIVE JUROR: About seventeen years ago.

24 MR. SIMONS: Anything about that do you
25 believe would affect you on how you would evaluate this

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1 case in any way?

2 PROSPECTIVE JUROR: Well, it's two different
3 circumstances. It's different situations, so no.

4 MR. SIMONS: All right. So, as you're
5 evaluating evidence in this case, you won't think back
6 to what happened to your parents to help you decide the
7 evidence in this case?

8 PROSPECTIVE JUROR: I don't remember much
9 about what happened to them, so no.

10 MR. SIMONS: Okay.

11 Let me ask Mr. Vannkeuren.

12 PROSPECTIVE JUROR: Yes.

13 MR. SIMONS: I'm doing okay with the names.

14 You also mentioned that I believe you saw your
15 brother arrested.

16 PROSPECTIVE JUROR: Yes.

17 MR. SIMONS: And that was in Brooklyn.

18 PROSPECTIVE JUROR: Yes.

19 MR. SIMONS: Is his case finished?

20 PROSPECTIVE JUROR: Yes, it is now.

21 MR. SIMONS: After everything, did you have
22 any -- I know you mentioned that you saw him being
23 arrested. Did you have any problems with the way he was
24 treated by the court, the District Attorney's Office?

25 PROSPECTIVE JUROR: Well, I never got to go to

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1 the courthouse and actually sit and watch the trial and
2 everything. I was actually outside on the street when
3 they were hitting him and stuff.

4 MR. SIMONS: But you didn't follow up with the
5 case after he was arrested?

6 PROSPECTIVE JUROR: No.

7 MR. SIMONS: Now, is there anything about that
8 that you think will affect either the way you'll
9 evaluate the prosecutor, the way he acts in this case,
10 the defense, or anything?

11 PROSPECTIVE JUROR: Well, at this point, no.

12 MR. SIMONS: At this point, no?

13 PROSPECTIVE JUROR: Yes. I can't really say
14 because -- You know, seeing that, it was hard for me,
15 because I was about eleven, twelve years old.

16 MR. SIMONS: So this is about ten years ago.

17 PROSPECTIVE JUROR: Yes.

18 MR. SIMONS: Can we get an assurance that it
19 will not affect the way you evaluate the evidence in
20 this case?

21 PROSPECTIVE JUROR: Yes.

22 MR. SIMONS: No problem?

23 PROSPECTIVE JUROR: No problem.

24 MR. SIMONS: I guess the same thing goes for
25 Mr. Abdelrasoul.

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1 PROSPECTIVE JUROR: Yes.

2 MR. SIMONS: You mentioned that there was an
3 issue where your brother was treated, the way he was
4 arrested.

5 PROSPECTIVE JUROR: Right.

6 MR. SIMONS: Did you follow up and follow his
7 case?

8 PROSPECTIVE JUROR: I did, actually, yes. I
9 had to go get him from the precinct.

10 MR. SIMONS: How long ago was that?

11 PROSPECTIVE JUROR: This was around three
12 years ago.

13 MR. SIMONS: Was there anything about the way
14 the prosecutor handled the case or the way the Court
15 handled the case that would affect you with this case?

16 PROSPECTIVE JUROR: It's not the court itself.
17 I think it's more of the police officers themselves
18 rather than the court.

19 MR. SIMONS: So, as far as the Court is
20 concerned and the prosecutor is concerned, you have no
21 problems --

22 PROSPECTIVE JUROR: No problems.

23 MR. SIMONS: -- and that won't affect you.

24 PROSPECTIVE JUROR: No.

25 MR. SIMONS: But you said the way he was

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1 handle by the police, you believe that may affect how
2 you evaluate the evidence?

3 PROSPECTIVE JUROR: Every time I hear words
4 out of a police officer now, I have to think twice about
5 it. Because they say one thing and they do a different
6 thing.

7 MR. SIMONS: Because I know the Court had
8 asked, I believe the question before, will you be
9 evaluating the police officers differently than you
10 would, say, a non police officer witness?

11 PROSPECTIVE JUROR: Not differently, but I
12 would have to think twice about it.

13 MR. SIMONS: Okay.

14 Mr. Thomas, I know you stated you're retired,
15 and did you everything. Well, did everything include,
16 were you a peace officer or a police officer?

17 PROSPECTIVE JUROR: No, no, nothing
18 professionally like that.

19 MR. SIMONS: No law enforcement?

20 PROSPECTIVE JUROR: No.

21 MR. SIMONS: Did you do security?

22 PROSPECTIVE JUROR: No, no.

23 MR. SIMONS: Once, again, I'm just -- Let me
24 just move on it real quick.

25 Mr. Diaz, you mentioned that you volunteer and

1 your wife both volunteer at the Jehovah Witness
2 organization.

3 PROSPECTIVE JUROR: Yes.

4 MR. SIMONS: Anything about your beliefs or
5 anything that will affect on how you evaluate the
6 evidence?

7 PROSPECTIVE JUROR: I don't think so.

8 MR. SIMONS: I have to say this, and I
9 mentioned this before, could you imagine yourself in an
10 airplane where the pilot says there's a storm and we're
11 going to land, and you say, "Well, can you land the
12 plane?" and he says, "Well, I think so." You'd be a
13 little nervous; right? Because you would want him to
14 say definitely, don't worry, relax, we'll be safe.

15 So, that's what I'm asking you. When you say
16 you don't think so, would you be able to assure the
17 Court, the prosecutor, and the defense that you would
18 not have any problems evaluating this case?

19 PROSPECTIVE JUROR: I don't know the evidence
20 at this point.

21 THE COURT: Well, let me say this. You're
22 right, you don't know the evidence. Mr. Diaz, my
23 concern is this: If you hear something and it goes
24 against your religious teachings, I don't know, let's
25 just say it does, or I instruct you on the law and

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1 that's not in sync with your religious teachings, my
2 concern as the judge would be then that you would impose
3 your religious beliefs on how you evaluate the evidence
4 in this case. That would be unfair, because we're
5 looking for jurors who will be fair and call it straight
6 up and down, and without being influenced by anything
7 else, based upon the evidence or the lack of evidence.
8 Because, again, it would be unfair to impose any kind of
9 moral values, religious values, or anything else on how
10 you evaluate the evidence.

11 Again, I know you haven't heard anything, but
12 that's what the kind of juror that I'm looking for, who
13 can call it straight up and down, without being
14 influenced by any other thing other than what comes out
15 of the mouths of the witnesses, and the exhibits, and
16 your careful unbiased consideration of all of the
17 evidence.

18 PROSPECTIVE JUROR: What I can say to be fair
19 is I can't divorce myself from what I believe, so
20 basically my beliefs are going to be part of my
21 deliberation and also my decision upon whatever is going
22 to be presented.

23 THE COURT: Certainly, that's an honest
24 answer.

25 MR. SIMONS: Thank you.

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1 Let me go to Mr. Perkins. I believe you
2 mentioned, and I might have gotten this wrong, you have
3 a diploma in religious studies?

4 PROSPECTIVE JUROR: Yes.

5 MR. SIMONS: Is there anything about that that
6 will affect you in following the judge's rulings and
7 deciding the evidence in this case?

8 PROSPECTIVE JUROR: No, sir.

9 MR. SIMONS: Okay.

10 If I don't get to everyone, I apologize.

11 Mr. Uribe, you mentioned that your
12 brother-in-law is a narcotics detective; correct?

13 PROSPECTIVE JUROR: Yes.

14 MR. SIMONS: Do you or have you in the past
15 talked to him about his job, what he does, and how he
16 does it?

17 PROSPECTIVE JUROR: No. Not too much, no.

18 MR. SIMONS: Anything that he might have told
19 you do you believe will affect you in how you evaluate
20 this case?

21 PROSPECTIVE JUROR: No.

22 MR. SIMONS: Does anyone have any questions
23 for me?

24 (NO RESPONSE)

25 MR. SIMONS: Then thank you very much.

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1 THE COURT: Okay. Jurors, what's going to
2 happen at this time is the attorneys and myself will
3 discuss who's to be selected to sit on this jury panel.

4 Jurors, if you're not selected to serve as a
5 juror, please don't take it as any indication or a
6 statement about your character or self-worth. It is
7 not.

8 Again, we have the highest responsibility to
9 choose as trial jurors those individuals who will be
10 fair and impartial and give both sides a fair trial,
11 that they're entitled to receive.

12 Again, jurors, I would instruct you please do
13 not discuss any aspect of this case amongst yourselves
14 or with anyone else.

15 You haven't heard any evidence up to this
16 point in this case and you will not hear any evidence
17 unless and until you're selected as a juror, so it would
18 be unfair to speculate about anything that you may hear.

19 That being said, jurors, I'm going to ask that
20 you step outside. You can hand the questionnaires to
21 the officer on your way out. You'll remain outside of
22 the courtroom until you're brought back in by one of the
23 court officers.

24 Thank you.

25 (At this time, the panel of prospective jurors

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1 left the courtroom)

2 MR. HALE: Your Honor, I have a question, if
3 it's okay?

4 THE COURT: Certainly.

5 MR. HALE: Juror number one, Miss Chavous
6 was --

7 THE COURT: She was supposed to call and find
8 out.

9 MR. HALE: Yes.

10 THE COURT: What I can do is ask her to call
11 her job now to find out whether, in fact, she's going to
12 be paid for whatever days.

13 We can call her in.

14 (Pause in the proceedings)

15 COURT OFFICER: Ready for the juror?

16 THE COURT: Yes.

17 (At this time, a prospective juror entered the
18 courtroom)

19 THE COURT: Can you just please state your
20 name for the record.

21 PROSPECTIVE JUROR: Falon Chavous.

22 THE COURT: Miss Chavous, you indicated that
23 you were going to call your job to find out whether, in
24 fact, they would pay you for the time for your jury
25 service, so I asked you to do that during the luncheon

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1 recess. I'm going to ask that you do that now and see
2 if you have an answer.

3 If you do, certainly we'll have an officer
4 outside who will be able to get that information. The
5 officer will be outside. So please try to do that now.

6 PROSPECTIVE JUROR: Okay.

7 (At this time, the prospective juror left the
8 courtroom)

9 (Pause in the proceedings)

10 THE COURT: Okay. The juror is coming in.

11 COURT OFFICER: Ready for Miss Chavous?

12 THE COURT: Yes.

13 (At this time, a prospective juror entered the
14 courtroom)

15 THE COURT: Would you restate your name for
16 the record, please.

17 PROSPECTIVE JUROR: Falon Chavous.

18 THE COURT: Miss Chavous, did you have an
19 opportunity to call your job, ma'am?

20 PROSPECTIVE JUROR: I was able to speak to
21 Human Resources, but the person I spoke to informed me
22 that she would have to speak with someone else. Because
23 I'm new, she would have to verify, before the
24 three-month period, if I am going to get paid or not.

25 THE COURT: Let me ask you this, ma'am. In

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1 the worse case scenario, where they indicate that you
2 don't get paid and you just get the \$40 from jury duty
3 on each day, would that affect your ability to sit on
4 this case and judge the evidence fairly in this case?

5 PROSPECTIVE JUROR: As far as evidence, no,
6 but it would definitely place a hardship on me as far as
7 what I would be making, \$40 a day.

8 THE COURT: Okay. Well, let me ask you this.
9 Is that hardship that you would face, would that affect
10 how you evaluate the evidence in this case,
11 Miss Chavous?

12 PROSPECTIVE JUROR: Well --

13 THE COURT: Again, there are no right or wrong
14 answers, only truthful answers.

15 Let's say you are selected and then all of you
16 sudden you say \$40 a day, that's not enough, I feel I
17 have to rush to judgment or do something that would be
18 unfair to the parties as a result of that. Because,
19 again, they're entitled to have jurors who will be fair
20 and impartial. Anything that might interfere with your
21 judgment on this case, we need to know.

22 PROSPECTIVE JUROR: I don't think it would
23 make me go either way on a verdict, but it would
24 probably distract me.

25 THE COURT: Would it distract you to the point

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1 that you would be unable to concentrate on the evidence?

2 PROSPECTIVE JUROR: Possibly. I hope not.

3 THE COURT: Okay. Let me ask you this. I
4 know you said you're scheduled to go on vacation also.
5 As a new employee, how did you work that out?

6 PROSPECTIVE JUROR: It was already scheduled
7 before I was hired, so it wasn't anything I could do.

8 They are calling me right now.

9 THE COURT: Okay. Maybe you should step
10 outside and take the call.

11 (At this time, the prospective juror left the
12 courtroom)

13 (Pause in the proceedings)

14 THE COURT: Okay. The juror is coming back
15 in.

16 COURT OFFICER: Ready for Miss Chavous?

17 THE COURT: Yes.

18 (At this time, a prospective juror entered the
19 courtroom)

20 THE COURT: Back on the record.

21 Miss Chavous?

22 PROSPECTIVE JUROR: They informed me that I do
23 get paid for the time that I'm serving.

24 THE COURT: So you would, in fact, get paid.
25 So that takes care of all of the concerns that you have?

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1 PROSPECTIVE JUROR: Yes.

2 THE COURT: And we would provide you a letter
3 to indicate that you are on jury duty if, in fact, you
4 are selected. So that you don't have any qualms at this
5 point about your service; is that correct?

6 PROSPECTIVE JUROR: None at all.

7 THE COURT: Thank you.

8 You may step outside.

9 (At this time, the prospective juror left the
10 courtroom)

11 THE COURT: Any challenges for cause, People,
12 as to prospective jurors one through three?

13 MR. HALE: No.

14 THE COURT: Defense?

15 MR. SIMONS: No.

16 THE COURT: Any peremptories, People, as to
17 one through three?

18 MR. HALE: Number three, Mr. Cipriano.

19 THE COURT: Is that it?

20 MR. HALE: That's it.

21 THE COURT: Any peremptories as to jurors one
22 and two, Defense?

23 MR. SIMONS: Number one.

24 THE COURT: Is that it?

25 MR. SIMONS: Yes.

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1 THE CLERK: So Mazhar Al Hadid becomes juror
2 number ten.

3 We have ten selected jurors.

4 THE COURT: Any challenges for cause as to
5 prospective jurors four and five?

6 People?

7 MR. HALE: No.

8 THE COURT: Defense?

9 MR. SIMONS: No.

10 THE COURT: Any peremptories as to four and
11 five?

12 People?

13 MR. HALE: Number four.

14 That's it.

15 THE COURT: Any peremptory, Defense, as to
16 number five?

17 MR. SIMONS: Yes.

18 THE CLERK: Judge, the People have challenged
19 have used nine challenges; the defense has used
20 thirteen.

21 THE COURT: Any challenges for cause as to
22 prospective jurors six and seven?

23 People?

24 MR. HALE: No.

25 THE COURT: Defense?

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1 MR. SIMONS: No.

2 THE COURT: Any peremptories as to six and

3 seven?

4 People?

5 MR. HALE: Seven, Mr. Vannkeuren.

6 That's it.

7 THE COURT: Any peremptories as to number six?

8 Defense?

9 MR. SIMONS: Yes.

10 THE CLERK: The People have used ten

11 challenges; the defense has used fourteen.

12 THE COURT: Any challenges for cause as to

13 eight and nine?

14 People?

15 MR. HALE: No.

16 THE COURT: Defense?

17 MR. SIMONS: No.

18 THE COURT: Any peremptories as to eight and

19 nine?

20 People?

21 MR. HALE: Number eight.

22 That's it.

23 THE COURT: Any peremptory as to number nine?

24 Defense?

25 MR. SIMONS: No.

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1 THE CLERK: So Robert Thomas becomes juror
2 number eleven.

3 Eleven selected jurors. The People have used
4 eleven challenges; the defense has used fourteen.

5 THE COURT: Any challenges for cause as to
6 number ten?

7 People?

8 MR. HALE: No.

9 THE COURT: Defense?

10 MR. SIMONS: No.

11 THE COURT: Any peremptories as to number ten?
12 People?

13 MR. HALE: No.

14 THE COURT: Defense?

15 MR. SIMONS: No.

16 THE CLERK: So Mark Rohrer becomes juror
17 number twelve.

18 THE COURT: Any challenges for cause as to
19 number eleven as a first alternate?

20 People?

21 MR. HALE: No.

22 THE COURT: Defense?

23 MR. SIMONS: Yes.

24 I believe Mr. Diaz stated he would put his
25 religious beliefs above --

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1 MR. HALE: He's right. I'll concede that.

2 THE COURT: Okay. Number eleven will be
3 excused for cause, on consent.

4 Any challenges for cause as to number twelve?
5 People?

6 MR. HALE: No.

7 THE COURT: Defense?

8 MR. SIMONS: No.

9 THE COURT: Any peremptories as to number
10 twelve?

11 People?

12 MR. HALE: No.

13 MR. SIMONS: Defense?

14 THE COURT: No.

15 THE CLERK: So John Perkins becomes alternate
16 number one.

17 THE COURT: Any challenges for cause as to
18 number thirteen as a second alternate?

19 People?

20 MR. HALE: No.

21 THE COURT: Defense?

22 MR. SIMONS: No.

23 THE COURT: Any peremptories as to number
24 thirteen?

25 People?

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1 MR. HALE: No.

2 THE COURT: Defense?

3 MR. SIMONS: Yes.

4 THE COURT: Any challenges for cause as to
5 number fourteen as a second alternate?

6 People?

7 MR. HALE: No.

8 THE COURT: Defense?

9 MR. SIMONS: No.

10 THE COURT: Any peremptories as to number 14?

11 People?

12 MR. HALE: Yes.

13 THE CLERK: Both sides have used one challenge
14 towards this seat, out of the two.

15 THE COURT: Any challenges for cause as to
16 number fifteen?

17 People?

18 MR. HALE: No.

19 THE COURT: Defense, for cause challenge?

20 MR. SIMONS: No.

21 THE COURT: Any peremptories as to number
22 fifteen?

23 MR. HALE: No.

24 THE COURT: Defense?

25 MR. SIMONS: Yes.

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1 THE CLERK: The defense has exhausted their
2 challenges towards this seat.

3 THE COURT: Any challenges for cause, as to
4 number sixteen?

5 People?

6 MR. HALE: No.

7 THE COURT: Any cause challenge, Defense, as
8 to number sixteen?

9 MR. SIMONS: No.

10 THE COURT: Any peremptories, People?

11 MR. HALE: No.

12 THE CLERK: So Felix Onyenwe is alternate
13 number two.

14 THE COURT: Any challenges for cause as to
15 number seventeen?

16 People?

17 MR. HALE: No.

18 THE COURT: Defense?

19 MR. SIMONS: No.

20 THE COURT: Any peremptories as to number
21 seventeen as a third alternate?

22 People?

23 MR. HALE: Yes.

24 THE COURT: Any challenges for cause as to
25 number eighteen as the third alternate?

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1 People?

2 MR. HALE: No.

3 THE COURT: Defense?

4 MR. SIMONS: No.

5 THE COURT: Any peremptories as to number
6 eighteen?

7 People?

8 MR. HALE: No.

9 THE COURT: Defense?

10 MR. SIMONS: No.

11 THE CLERK: So Darryl Williams is alternate
12 number three.

13 THE COURT: We'll see if we can get a fourth
14 alternate.

15 Any challenges for cause as to number
16 nineteen?

17 People?

18 MR. HALE: No.

19 THE COURT: Defense?

20 MR. SIMONS: No.

21 THE COURT: Any peremptories as to number
22 nineteen?

23 People?

24 MR. HALE: No.

25 THE COURT: Defense?

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1 MR. SIMONS: Yes.

2 THE COURT: Do you think we can try to get a
3 fourth alternate? If we can. If not, then I'll go with
4 the three that we have.

5 (Pause in the proceedings)

6 THE COURT: If not, I'll go with the three
7 that we have.

8 MR. HALE: You want to go with the three?

9 MR. SIMONS: Yes.

10 MR. HALE: That's works, Judge.

11 THE COURT: Okay.

12 Are both sides ready?

13 MR. HALE: Yes.

14 MR. SIMONS: Yes.

15 (Pause in the proceedings)

16 COURT OFFICER: Ready for the jury?

17 THE COURT: Are both sides ready for the jury?

18 MR. HALE: Yes.

19 MR. SIMONS: Yes.

20 THE COURT: Yes.

21 COURT OFFICER: Jury entering.

22 (At this time, the panel of prospective jurors
23 entered the courtroom)

24 THE CLERK: We have selected a jury. I'll
25 call the names of those of you who have been selected.

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1 Please answer here or present.

2 Mazhar Al Hadid.

3 A JUROR: Here.

4 THE CLERK: Robert Thomas.

5 A JUROR: Here.

6 THE CLERK: Mark Rohrer.

7 A JUROR: Here.

8 THE CLERK: John Perkins.

9 A JUROR: Here.

10 THE CLERK: Felix Onyenwe.

11 A JUROR: Here.

12 THE CLERK: Darryl Williams.

13 A JUROR: Here.

14 THE CLERK: All right. If I called your name,
15 remain seated.

16 If I didn't call your name, please wait
17 outside in the corridor and we will be out shortly to
18 give you further directions.

19 Thank you.

20 (At this time, the unselected jurors left the
21 courtroom)

22 THE CLERK: Will the six newly selected jurors
23 please rise and raise your right hand and answer the
24 following question:

25 Do you and each of you solemnly swear or

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1 affirm that you will try this case in a just and
2 impartial manner, to the best of your judgment, and that
3 you will render a verdict according to the law and the
4 evidence?

5 Please say I do.

6 (AFFIRMATIVE RESPONSE FROM JURORS)

7 THE CLERK: Thank you.

8 Be seated, please.

9 THE COURT: Again, jurors, as you can tell,
10 jury selection is a slow and a tedious process, but an
11 important one.

12 You have been selected because it's been
13 determined that you will be fair and give both sides a
14 fair trial, which they're entitled to receive.

15 Again, jurors, I'm going to instruct you
16 please don't discuss any aspect of this case amongst
17 yourselves or with anyone else. You haven't heard any
18 evidence, it would be unfair to speculate.

19 Also, jurors, I'm going to instruct you that
20 if you see any of the parties, you cannot ask them how
21 long do I have to be here, when do we get started, and
22 when can I leave. They will ignore you. Not that
23 they're being rude, but they're following the
24 instructions of the Court.

25 Also, jurors, you're going to return on Monday

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1 morning, which is May 5th, at 10 a.m.

2 At that time, I will give you further
3 instructions, and you will also hear an opening
4 statement that the district attorney's office is
5 required to make to you by law. Certainly, thereafter,
6 if defense counsel chooses, he may also make an opening
7 statement. And testimony is expected to begin on
8 Monday.

9 Again, as I said, jurors, you all said you
10 would keep an open mind and be fair and impartial, and
11 we're going to hold you to the oath that you took.

12 On Monday, when you return, you will be shown
13 to the jury room. The officer will take information
14 from you and show you the jury room that you should
15 report to on Monday.

16 You'll follow the direction of the court
17 officer.

18 (At this time, the jury left the courtroom)

19 THE COURT: Certainly, I'll see the parties at
20 10:00.

21 MR. SIMONS: Your Honor, at this time, since
22 the jury has been sworn, I would request Rosario
23 material, if there is anything outstanding, to be turned
24 over at this time.

25 THE COURT: Mr. Hale, do you have anything

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1 that's outstanding?

2 MR. HALE: Can I confer with counsel for just
3 a second, your Honor? I don't exactly remember what I
4 have given him.

5 THE COURT: Okay.

6 (Off-the-record discussion held)

7 MR. HALE: Your Honor, there are two tape
8 recordings that were of the witness Jacqueline Warren
9 and one of Derrick Warren, that I do have transcripts
10 for. Those are still outstanding. I haven't been back
11 to my office today, or much of yesterday, as it were, so
12 I do not have those items with me.

13 If Mr. Simons wants to stick around a little
14 while, I'll give them to him.

15 MR. SIMONS: Well, I would walk to his office,
16 so then I can keep going on.

17 MR. HALE: That's very nice of you to do that.

18 I believe that's everything, Judge.

19 THE COURT: Okay.

20 Also, I will say this. Mr. Waiters, you have
21 no obligation or burden to do anything whatsoever. The
22 jury has been selected. I imagine at some point in time
23 either next week or thereafter, the People will rest. I
24 certainly will need to have an answer as to whether, in
25 fact, you wish to exercise your right to testify.

1 Of course, you have no obligation to do so,
2 but I would not want you to come back to this Court on
3 any other date and say, "You know what, Judge? I wanted
4 to get up on that witness stand and tell my side of the
5 story, but my lawyer stopped me from doing it." Or, "I
6 didn't want to testify, my lawyer told me I had to get
7 up on that witness stand and tell my side of the story."

8 Because, again, certainly you need to consult
9 with your attorney, but ultimately that decision belongs
10 to each and every defendant.

11 Is that understood by you, Mr. Waiters?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: I'll see the parties at 10 a.m. on
14 Monday.

15 MR. HALE: Did the Court give any more thought
16 to the issue concerning the statements to the police in
17 relation to the expert witness?

18 THE COURT: I really didn't. Let's pick that
19 up on Monday. If you want to start before then, at
20 9:45, I'll certainly do that as well.

21 MR. HALE: All right. We'll see you then,
22 Judge.

23 * * * * *

24 (At this time, court stands in recess, and the
25 trial adjourned to Monday, May 5, 2008, at 9:45 a.m.)